



Security Council

Sixtieth year

Provisional

5326th meeting

Wednesday, 14 December 2005, 5.40 p.m.
New York

<i>President:</i>	Sir Emyr Jones Parry	(United Kingdom)
<i>Members:</i>	Algeria	Mr. Baali
	Argentina	Mr. García Moritán
	Benin	Mr. Zinsou
	Brazil	Mr. Sardenberg
	China	Mr. Zhang Yishan
	Denmark	Mr. Faaborg-Andersen
	France	Mr. De Rivi�re
	Greece	Mrs. Papadopoulou
	Japan	Mr. Kitaoka
	Philippines	Mr. Lacanilao
	Romania	Mr. Dumitru
	Russian Federation	Mr. Denisov
	United Republic of Tanzania	Mr. Manongi
	United States of America	Mr. Bolton

Agenda

The situation between Eritrea and Ethiopia

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.



The meeting was called to order at 5.40 p.m.

Adoption of the agenda

The agenda was adopted.

The situation between Eritrea and Ethiopia

The President: The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

After consultations among the members of the Security Council, I have been authorized to make the following statement on behalf of the Council:

"The Security Council has agreed, in consultation with the Secretary-General, to temporarily relocate military and civilian staff of the United Nations Mission in Ethiopia and Eritrea (UNMEE) from Eritrea to Ethiopia. The Security Council intends to maintain an UNMEE military presence in Eritrea during the period in which it is reviewing future plans for UNMEE.

"The Security Council has approved this decision solely in the interests of the safety and security of UNMEE staff. The lack of cooperation with UNMEE by the Eritrean authorities has produced conditions on the ground which prevent UNMEE implementing its mandate satisfactorily.

"The Security Council strongly condemns Eritrea's unacceptable actions and restrictions on

UNMEE, which have drastically reduced any meaningful operational capacity for the mission and will have, if they are sustained, implications for UNMEE's future. The Security Council recalls its demand, expressed in resolution 1640 (2005), that Eritrea reverse such restrictions and provide UNMEE with the access, assistance, support and protection required for the performance of its duties.

"In this regard, the Security Council intends, with the Secretariat, to review promptly all options for UNMEE's deployment and functions in the context of its original purpose, capacity to act effectively and the different military options available.

"The Security Council's view on the fundamental issue of implementation of the Eritrea-Ethiopia Boundary Commission's delimitation decision remains unchanged and the Council emphasizes the urgent need for progress in implementation of the EEBC's decision."

This statement will be issued as a document of the Security Council under the symbol S/PRST/2005/62.

The Security Council has thus concluded the present stage of its consideration of the item on the agenda. The Security Council will remain actively seized of the matter.

The meeting rose at 5.45 p.m.



Security Council

Sixtieth year

Provisional

5327th meeting

Thursday, 15 December 2005, 10 a.m.
New York

<i>President:</i>	Mr. Thomson	(United Kingdom)
<i>Members:</i>	Algeria	Mr. Baali
	Argentina	Mr. García Moritán
	Benin	Mr. Babadoudou
	Brazil	Mr. Sardenberg
	China	Mr. Li Song
	Denmark	Mr. Faaborg-Andersen
	France	Mrs. Collet
	Greece	Mrs. Telalian
	Japan	Mr. Kitaoka
	Philippines	Mr. Chuasoto
	Romania	Mr. Dumitru
	Russian Federation	Mr. Rogachev
	United Republic of Tanzania	Mr. Manongi
	United States of America	Ms. Willson

Agenda

The situation in Côte d'Ivoire

Letter dated 7 November 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire addressed to the President of the Security Council (S/2005/699)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.



The meeting was called to order at 10.15 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in Côte d'Ivoire

Letter dated 7 November 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire addressed to the President of the Security Council (S/2005/699)

The President: I should like to inform the Council that I have received a letter from the representative of Côte d'Ivoire, in which he requests to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Yao (Côte d'Ivoire) took a seat at the Council table.

The President: The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/2005/699, which contains the text of a

letter dated 7 November 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire addressed to the President of the Security Council.

Members of the Council also have before them documents S/2005/744 and S/2005/768, which contain the texts of letters dated 28 November 2005 and 8 December 2005, respectively, from the Secretary-General addressed to the President of the Security Council.

Additionally, members of the Council have before them document S/2005/786, which contains the text of a draft resolution submitted by France.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. Unless I hear any objection, I shall put the draft resolution to the vote now.

There being no objection, it is so decided.

A vote was taken by show of hands.

In favour:

Algeria, Argentina, Benin, Brazil, China, Denmark, France, Greece, Japan, Philippines, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America.

The President: There were 15 votes in favour. The draft resolution has been adopted unanimously as resolution 1643 (2005).

The Security Council has thus concluded the present stage of its consideration of the item on its agenda. The Council will remain seized of the matter.

The meeting rose at 10.20 a.m.



Security Council

Sixtieth year

Provisional

5328th meeting

Thursday, 15 December 2005, 10.20 a.m.
New York

<i>President:</i>	Mr. Llewellyn/Mr. Thomson	(United Kingdom of Great Britain and Northern Ireland)
<i>Members:</i>	Algeria	Mr. El Hadj Ali
	Argentina	Mr. Mayoral
	Benin	Mr. Babadoudou
	Brazil	Mr. Sardenberg
	China	Mr. Guan Jian
	Denmark	Mr. Faaborg-Andersen
	France	Ms. Collet
	Greece	Mrs. Telalian
	Japan	Mr. Kitaoka
	Philippines	Ms. Sarne
	Romania	Mr. Motoc
	Russian Federation	Mr. Rogachev
	United Republic of Tanzania	Mr. Manongi
	United States of America	Ms. Willson

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Letter dated 30 November 2005 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council (S/2005/781)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.



Letter dated 5 December 2005 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 addressed to the President of the Security Council (S/2005/782)

The meeting was called to order at 10.20 a.m.

Adoption of the agenda

The agenda was adopted.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Letter dated 30 November 2005 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council (S/2005/781)

Letter dated 5 December 2005 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, addressed to the President of the Security Council (S/2005/782)

The President: I should like to inform the Council that I have received letters from the representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia and Montenegro, in which they request to be invited to participate in the discussion of the item on the Council's agenda. In accordance with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the consideration, without the right to vote, in accordance with the relevant provisions of the Charter

and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, the representatives of the aforementioned countries took the seats reserved for them at the side of the Council Chamber.

The President: I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Judge Fausto Pocar, President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, and also Judge Erik Møse, President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, and also to Ms. Carla Del Ponte, Prosecutor of the Tribunal for the Former Yugoslavia, and to Mr. Hassan Bubacar Jallow, Prosecutor of the Tribunal for Rwanda.

It is so decided.

I invite Judge Pocar, Judge Møse, Ms. Del Ponte and Mr. Jallow to take seats at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

I should like to draw the attention of the members to photocopies of letters circulated on 2 and 6 December 2005, respectively, from the President of the International Tribunal for the Former Yugoslavia and the President of the International Criminal Tribunal for Rwanda, which will be issued as documents of the Security Council under the symbols S/2005/781 and S/2005/782.

At this meeting, the Council will hear briefings by the President and the Prosecutor of the International Tribunal for the Former Yugoslavia, and the President and Prosecutor of the International Criminal Tribunal for Rwanda. Following those briefings, I will give the

floor to Council members who wish to make comments or ask questions.

As there is no list of speakers for the Council members, I would like to invite them to indicate to the secretariat if they wish to take the floor.

I now give the floor to Judge Pocar, President of the International Tribunal for the former Yugoslavia.

Judge Pocar: I consider it a great honour and privilege to address the Security Council for the first time in my capacity as the new President of the International Criminal Tribunal for the Former Yugoslavia (ICTY).

Mr. President, I am especially pleased to appear before the Security Council during your tenure. Your country has long demonstrated strong commitment to the work of the Tribunal. Allow me to express our deep gratitude for that ongoing support.

I stand before the Security Council today for the specific purpose of presenting the fourth report of the President of the Tribunal on our completion strategy, pursuant to Council resolution 1534 (2004). The written report is before the Council, as submitted on 30 November 2005. It explains the measures taken and challenges faced by the Tribunal from June to November of this year in its efforts to meet the goals of the completion strategy. The report also provides an updated prognosis with regard to implementation of the completion strategy.

Given my recent election, on 16 November, this report primarily reflects the achievements and progress of the Tribunal under the leadership of my predecessor, Judge Theodor Meron. In my statement today, I intend to outline for the Council its key points, as well as new developments since its submission.

As members of the Council are undoubtedly aware, Ante Gotovina, one of the Tribunal's highest-level accused and who has long been at large, was recently arrested in Spain and was transferred to the Tribunal on 10 December. We are one step closer to reaching the goal of having all remaining high-ranking accused brought before the Tribunal. I also wish to inform the Council that since the submission of the report, another sentencing judgement was rendered by the Trial Chamber in the *Bralo* case, on 7 December. As can be seen, the work of the Tribunal is ever moving forward.

Mr. President, allow me now to briefly summarize the judicial activity of the Tribunal since the last report, submitted in May 2005. In the last six months, the three Trial Chambers and the Appeals Chamber have continued to operate at full capacity. The Trial Chambers are hearing six trials simultaneously and are currently managing 18 cases in the pre-trial stage. At the same time, four new contempt trials, involving six accused, have begun. In the reporting period, the Trial Chambers have rendered three judgements involving five accused. One judgement involving two accused is due to be issued in January 2006, and two more judgements are expected to be rendered by mid-2006.

The Appeals Chamber has disposed of 30 appeals, from both this Tribunal and the International Criminal Tribunal for Rwanda (ICTR) since the last report. Of these, four have been judgements. In January and February 2006, three more judgements are expected to be issued.

I must convey to the Council that the Tribunal's caseload only continues to grow. Since May 2005, four more indictees have been apprehended, resulting in a total of 21 accused who have been or are being transferred to the Tribunal in the past year. This number represents an increase of more than 50 per cent in the number of persons awaiting trial, compared to that reported in November 2004. At present, 45 accused, or 18 cases, await trial, and I am pleased to report that only six of a total of 161 indictees remain at large.

Let me now turn to my first topic — that is, internal measures taken by the Tribunal towards implementation of the completion strategy. As the Council may recall, two working groups of judges were formed to examine the procedures and practices of the Trial and Appeals Chambers, with a view to improving their working methods while maintaining the Tribunal's commitment to due process.

The Working Group on Speeding up Trials, chaired by Judge Bonomy, among other things came to the conclusion that the three existing courtrooms should be renovated to allow for the conduct of trials involving multiple accused — an issue I will address in detail later in this statement. Renovations began at the end of November and will continue through the first part of next year. They are being conducted in such a

way as to ensure that two courtrooms are always available for the judges.

The Working Group also found that it is vital that a fourth courtroom be constructed. The Registrar of the Tribunal produced a cost/benefit analysis on this issue, and the Tribunal is still assessing the viability of this project before submitting it to the Security Council. In any event, if the Tribunal were to decide to go ahead with the construction of a fourth courtroom, interested Governments would be approached to donate the necessary funds.

As for the Working Group on Speeding up Appeals, chaired by Judge Mumba, I am pleased to report that it has completed its work. Its recommendations were adopted unanimously by the judges and were implemented in the Rules and Practice Directions of the Tribunal in the autumn. I will not describe the adopted amendments in detail but, instead, refer you to the written report. However, I stress that their impact on the efficiency of appeal proceedings has already been felt. For example, a new procedure has already cut in half the time required to dispose of 12 interlocutory appeals.

A further internal measure is worth noting. Since the last report submitted to the Security Council, the e-Court system has been introduced at the Tribunal. That system, which integrates all case-related documents into a central electronic database, eliminates the need for unnecessary paper filings. It thus has the potential to increase the accessibility of information while expediting proceedings. The system's effectiveness has yet to be fully assessed. However, already, one and a half months of judgement-writing time were saved in one case thus far.

The second topic that I wish to raise before the Council today concerns the importance of the ad litem judges to implementation of the completion strategy. The Tribunal is extremely grateful to the Security Council for the several resolutions on the Tribunal that it has adopted in the past year, which have enhanced the support provided by ad litem judges. The Tribunal has greatly benefited from the possibility of re-electing ad litem judges; the election of a new pool of ad-litem judges to be called upon for new trials; the permission granted for nine ad litem judges to continue beyond the expiry of their terms; and the early appointment of one ad litem judge as a permanent judge so that she could be assigned to a new trial.

My third topic is the referral of cases of intermediate- and lower-ranking accused from the Tribunal to competent national jurisdictions pursuant to rule 11 bis of the Tribunal's Rules. Those proceedings have been a focal point for the Tribunal in the past six months. To date, the Prosecutor has filed 12 referral motions involving 20 accused. While most of those motions are still pending final decision, one case has already been referred to the Republic of Croatia, and two have been referred to the War Crimes Chamber of the State Court of Bosnia and Herzegovina.

In order to ensure that due process is accorded in the cases referred, the Tribunal continues to conduct several training initiatives to build the local capacity of national courts in the former Yugoslavia. My report contains the specifics of those initiatives. The Tribunal remains committed to doing its utmost to assist the development of the rule of law in the region as a crucial component of the completion strategy.

I shall now address my fourth topic, which is paramount to the Tribunal's success in finishing its work: cooperation by States in the region with the Tribunal. Over the past six months, cooperation has been improving in some areas. However, the failure to arrest the remaining six indictees at large remains a major concern.

Cooperation with Croatia is now satisfactory. Bosnia and Herzegovina's level of cooperation remains very good at both the Federation and State levels. With respect to Republika Srpska within Bosnia and Herzegovina, while there are encouraging signs of cooperation, that cooperation remains insufficient because of the failure to provide information that could lead to the arrest of Radovan Karadzic and Ratko Mladic. Serbia and Montenegro's cooperation has improved, but the failure to turn over the remaining fugitives is a serious concern. I urge the international community to maintain its pressure on that matter as Serbia and Montenegro's expressed goodwill must be translated into actions and results.

As stated previously, during the reporting period, the number of accused at large was reduced from 10 to six with the arrest of four indictees. One of them, Milan Lukic, is still in the custody of the Argentine authorities, who wish first to dispose of an extradition request by Serbia and Montenegro before transferring him to the Tribunal. The other fugitive, Dragan Zelenovic, has been detained by the Russian

authorities, and discussions on the modalities for his transfer are in progress. The third fugitive, Sredoje Lukic, was transferred to the Tribunal's custody in September from Republika Srpska, after being at large for nearly seven years. Finally, as I said earlier, Gotovina was transferred to the Tribunal on 10 December, after evading arrest over the past four years.

Those most recent arrests demonstrate that the Tribunal remains dependent upon the cooperation of all Member States, in addition to the cooperation of States in the Balkans, for completion of its mandate. While recognizing the important efforts made by Member States so far, I urge them to provide full cooperation in order to apprehend the remaining six fugitives. Among them, Mladic and Karadzic remain the most notorious. The Tribunal simply cannot close its doors until they have been brought to justice.

The final topic that I raise before the Council is the prognosis for the Tribunal's implementation of the completion strategy. In May 2005, my predecessor stated that it was definitely no longer feasible to envisage an end of all trial activity at the Tribunal by the end of 2008. That was due to the large number of indictments and fugitives who had arrived at the Tribunal since the previous report, as well as the filing and the confirmation of seven new or amended indictments by the Prosecution involving 13 accused. Judge Meron predicted that trials would have to run into 2009.

Six months later, I can only confirm that prediction. Whether the growing number of trials will conclude by the end of 2009 depends upon the following factors.

First, of primary importance is the trial of Karadzic and Mladic. If those fugitives are arrested in the near future, the completion of all trials at the close of 2009 remains feasible. However, the longer their arrival is delayed, the greater the likelihood that trials will continue longer.

Secondly, the Tribunal has forged ahead with the joinder of cases into single trials of multiple accused as a measure for saving the time it would take to try each case individually. At present, three trials of multiple accused are in the pre-trial stage, involving a total of 20 accused and consolidating 14 cases. However, of the three joinder motions filed by the Prosecution during the reporting period, only two have been granted, and the Prosecution has not appealed the rejected motion. I

must also emphasize that the impact that the joinder of cases will have on the efficiency of trials at the Tribunal remains untested. They may actually result in some delay if, for example, the entire trial must be stopped due to the illness of one or more of the accused. I can assure the Council that all efforts are being made by the pre-trial judges assigned to those cases to avoid any delay by making proper pre-trial preparations.

I must flag for the Council a very important issue related to the trials of multiple accused that is not found in my written report. I shall raise it now because the first of those trials is to begin in February 2006. While those trials of multiple accused should save much time overall, it is obvious that they will run longer than a regular trial due to their size and complexity. Consequently, it is possible that, for any number of reasons, judges originally assigned to a case may be unable to complete the proceedings. The Judges of the Tribunal have already made a controversial amendment to the Rules to allow for the replacement of one of the original three Judges, so that the trial can continue. That rule was applied in the Milošević proceedings and in two other cases. However, if a situation were to arise in which two of the original Judges in a case would need to be replaced, that would mean, under our Rules, that the trial would have to restart.

The Judges of the Tribunal firmly agreed, in a plenary held just 10 days ago, that the interests of justice cannot be served by allowing a trial to be completed by a bench of Judges the majority of whom have not heard the entire proceedings. We have explored all possible options for avoiding such a retrial, and the alternative solution that we devised would be to appoint a fourth, reserve or standby Judge to new trials of multiple accused. That Judge would hear the case from start to finish and would be able to step in for the two original Judges who were no longer able to sit. I bring this to the Council's attention because such an appointment would require the approval and support of the Security Council.

I now turn to a third factor that may affect the completion strategy. Although the Tribunal has now successfully referred three cases, involving four accused, to the former Yugoslavia under Rule 11 bis, not all Rule 11 bis motions have been granted. One motion was denied by the referral bench, one motion was withdrawn by the prosecution, and the Prosecutor

has indicated that he will soon withdraw yet another. Consequently, five accused originally proffered by the prosecution will not be referred.

If all of the remaining cases in which there are pending 11 bis motions are successfully referred, a total of 11 accused — or 10 additional cases — will be removed from the Tribunal's docket, and that will certainly accelerate the Tribunal's work. However, as I outlined in my report, upon referral of a case, the Tribunal may still be called upon to take back those cases in which an accused has not been afforded a fair trial in the State to which he or she has been referred.

In conclusion, I can predict that if the remaining fugitives are apprehended soon, if the cases of multiple accused run smoothly and if all of the remaining Rule 11 bis motions are referred without any cases being referred back to the Tribunal, there is still a possibility that trials will be completed in 2009. That assessment may, however, be affected by other variables. For example, unforeseen issues causing delay may arise, including ill health on the part of the accused, a change of counsel during the proceedings, the loss of experienced and talented staff and an increase in the number of contempt cases. On the other hand, some factors may help to accelerate the proceedings, such as the entry of new guilty pleas and the possible construction of a fourth courtroom.

In any event, I can assure the members of the Security Council that the Tribunal remains fully committed to its completion strategy and that it will continue to do everything in its power to discharge its mandate as efficiently as possible. I trust that the achievements and progress of the Tribunal summarized in the written report are evidence of our absolute commitment to search for every possible way in which to maximize the efficiency and efficacy of the Tribunal without, of course, sacrificing due process norms. Again, I thank the members of the Council for the ready support provided to the Tribunal for this endeavour.

In establishing the Tribunal, the Council took an historic decision to restore international peace and security through the vehicle of international justice. Because of the existence of the Tribunal, victims of genocide, war crimes and crimes against humanity have been vindicated as the perpetrators have been brought to justice. Simultaneously, it has been demonstrated to the world that it is possible to have

international criminal justice that respects fundamental norms of due process.

In conclusion, allow me to emphasize once again that it is crucial that the Tribunal not close its doors until all remaining fugitives are tried. The Tribunal must complete its mandate in order to preserve its fundamental message and legacy: that the international community will not tolerate genocide, war crimes and crimes against humanity and will not allow them to go unpunished. I thank the members of the Council for the attention and time they have given me today.

The President: I thank Judge Procar for his briefing.

I now give the floor to Judge Erik Mose, President of the International Criminal Tribunal for Rwanda.

Judge Mose: It is an honour to address the members of the Security Council to present an updated version of the completion strategy of the International Criminal Tribunal for Rwanda (ICTR), submitted to the Council on 5 December 2005. The Council also has before it our tenth annual report, covering the period from 1 July 2004 to 30 June 2005.

There has been steady progress at the ICTR since the Prosecutor and I appeared before the Council in June this year. The number of accused with their cases completed or ongoing is now 52.

On 13 December 2005, judgment was rendered in the case of Aloys Simba, a retired lieutenant colonel and former member of Parliament. He was convicted of genocide and extermination as a crime against humanity and sentenced to 25 years' imprisonment. That brings the number of accused having received judgments to 26 since the first trials started in 1997.

In the *Bisengimana* case, the Trial Chamber accepted a guilty plea from the accused on 7 December 2005 for crimes against humanity, including extermination and murder. Therefore, following the sentencing hearing on 19 January 2006, the number of persons with completed cases will soon be 27. The *Bisengimana* case is the sixth guilty plea at the ICTR.

In addition to those two completed single-accused cases, two new cases started during the past six months. The *Mpambara* trial, which relates to a *bourgmestre*, commenced on 19 September 2005. The Chamber heard 10 prosecution witnesses over the

course of eight days. Two additional days were allotted to cross-examination this week. That makes it the fastest prosecution case in the Tribunal's history. The defence will present its evidence from Monday 9 January 2006, and judgment is expected in the first half of 2006.

The second new trial involves Prefect Zigiranyirazo; it started on 3 October 2005. The prosecution is expected to have presented all its evidence by March 2006.

I should also mention the fact that, following the pre-trial preparations that have been under way in the past few months, a third new trial is scheduled to commence on 9 January 2006. That case involves Prefect Karera.

Turning now to the trials that were in progress before the June 2005 Security Council meeting, I will first provide an update with respect to three single-accused cases. In the *Seromba* trial, which commenced on 20 September 2004, there was a need to replace defence counsel. However, the defence is now presenting its evidence and will close its case early next year. The *Muvunyi* trial commenced on 28 February 2005. Here, too, the defence has nearly completed the presentation of its evidence. There is also a positive development in the *Rwamakuba* case, which commenced on 9 June 2005 after its accused had been separated from the other three accused in the case *Karemura et al.* The defence will complete its evidence in early 2006.

In brief, I am very pleased to report that those three single-accused cases are approaching completion and that judgments will be rendered in 2006. That will make room for the commencement of new single-accused cases. Pre-trial preparations in those cases are under way.

The five multi-accused trials have continued to progress steadily in recent months. In the *Butare* case, involving six accused, the second accused is now presenting his witnesses. In the *Military I* case, with four accused, over 50 defence witnesses have testified. In the *Government* trial, with four accused, the defence started presenting its evidence at the beginning of November, just as planned. The two other joint trials are at an earlier stage. In *Military II*, with four accused, over half of the prosecution witnesses have testified. The case of *Karemura et al.*, with three accused, started de novo in September and is advancing well.

I hope to have conveyed a picture of how busy the ICTR has been these last months, handling 10 trials involving 26 accused. About 16 accused are being transported to and from the courtroom every day. All four courtrooms are in full use from morning to evening. Let me stress that our fourth courtroom, funded by voluntary contributions, has proven to be absolutely vital in order to ensure progress. Everyone is working extremely hard: the judges, prosecution and defence counsel, interpreters, court reporters, courtroom officers, witness protection personnel and all other staff members who more indirectly, but not less importantly, contribute to the smooth running of our cases. Some of our judges even sit double shifts and hear two trials on the same day.

Still, considerable work remains to be done. It follows from our completion strategy document that 17 detainees are awaiting trial. As I have explained, there will be only 15 detainees awaiting trial early next year. As soon as there is courtroom space and judges available we will endeavour to reduce that number further by starting new trials. Let me recall that all the remaining cases are single-accused cases, which will make our task easier.

The Prosecutor will provide members of the Council with an update of his plans to transfer cases to national jurisdictions. Let me simply note that so far, the Trial Chambers have not received any requests for such transfers pursuant to rule 11 bis. Our Prosecutor will also inform the Council about the indictees at large and the prospects for their arrest. In relation to those two issues — transfer of cases and arrest of fugitives — I would like to stress that State cooperation is absolutely essential for the ICTR. Impunity for perpetrators of mass atrocities is not a viable option.

Another area where the ICTR depends on the assistance of States is the relocation of acquitted persons. The Council will recall that three of our accused have been acquitted. In relation to the first, Mr. Bagilishema, the ICTR is still very grateful to the French authorities that kindly agreed to receive him some time ago. At present, two acquitted persons are still in Arusha in spite of having been acquitted by judgement of 25 February 2004, in the *Cyangugu* trial. During the appeals proceedings, they have been placed in a safe house pending unsuccessful efforts to find a country for them. States should consider it a common responsibility, and an important contribution to

international criminal justice, to find solutions on the relocation of acquitted persons.

Rwanda has continued to cooperate with the Tribunal by facilitating a steady flow of witnesses from Kigali to Arusha and by providing documents of relevance to the court proceedings. This is appreciated by the Tribunal. Let me also recall that our outreach programme remains a prioritized area. Inside Rwanda, a vital role is played by the ICTR Information Centre in Kigali. I refer to our tenth annual report (S/2005/534) for further information about its activities. Moreover, the Tribunal continues to receive frequent delegations from many parts of Rwandan society. Direct observation of trials in Arusha and discussions with Tribunal officials are essential to better understand our contribution to justice and reconciliation.

I would also like to reiterate the need for capacity-building inside Rwanda in order to strengthen the judicial system within a country which is faced with an enormous task. Governmental and non-governmental organizations are playing a very important part in that field.

Let me, then, simply conclude by reiterating that the ICTR is on course in relation to its completion strategy. We remain committed to the deadline for completion of trials established by the Security Council. We also want to express our deep appreciation to the members of the Council for their continued support to the ICTR.

The President: I thank Judge Møse for his briefing.

I give the floor to Ms. Carla Del Ponte, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia.

Ms. Del Ponte: It is a great honour to be here again to provide an assessment of the progress made in the implementation of the completion strategy. As members know, a written assessment has previously been distributed, and I intend to concentrate today on the major issues. For six years now, I have had to report to the Council that the failure to bring Radovan Karadzic and Ratko Mladic into the custody of the Tribunal is the major impediment to the success of our work. As we advance in the implementation of the completion strategy, it is becoming more crucial every day to bring those two indictees to The Hague, because

any further delay will impact on the completion strategy.

On 13 June (see S/PV.5199), I presented my last assessment to the Council, and it was cautiously optimistic. There was a momentum at that time, and it was legitimate to believe that the issue of fugitives could be resolved once and for all in a matter of a few months. The Serbian Government, in particular, had raised expectations that Ratko Mladic would be transferred to The Hague before the commemoration of the Srebrenica genocide on 11 July, or at the latest at the beginning of October. That did not happen. There was also hope that, once Mladic was in The Hague, efforts would focus on Radovan Karadzic. As far as I know, there is no reliable or confirmed information on either of those two accused, and I am not aware of any credible attempt to locate and apprehend them.

The Office of the Prosecutor has no explicit mandate to arrest indictees. However, the Tribunal, and in particular its Prosecutor, has a responsibility to ensure that arrest warrants are executed and that indictees are tried. Since trials in absentia are not permitted at the International Criminal Tribunal for the Former Yugoslavia (ICTY), the accused must be brought to The Hague, through either arrests or voluntary surrenders.

In 2001, I decided to begin carrying out small-scale tracking activities for a combination of reasons. First, many arrest warrants were left unexecuted. At that time, 24 accused were at large. Secondly, I was not receiving any information from the other relevant actors. Finally, since the completion strategy was being developed at the time, it became clear that the arrest of fugitives would be a key condition for successful implementation of the strategy. It was therefore essential for the Office of the Prosecutor to build a small, but effective, in-house capability.

Our tracking activities are meant to remain of a mainly coordinating nature, because my Office cannot and will not build up the technical and human resources that would allow us to carry out sophisticated intelligence operations.

Despite our limited resources, we were successful in locating fugitives on a number of occasions. But when significant resources are required, we have to turn to the relevant States, inside and outside the region, or to NATO and the European Union-led peacekeeping force (EUFOR) — and previously to the

Stabilization Force (SFOR) — in Bosnia and Herzegovina. We are systematically passing on our information to those national and international bodies. Unfortunately, we rarely get any feedback on the information we provide. It was only recently that my Office began to receive some information. As far as I know, neither those States nor international organizations have ever managed to come close to the arrest of Karadzic or Mladic. Until recently, they have been unwilling to provide the ICTY with useful information about those fugitives or to coordinate efforts. I could give many examples to illustrate that dysfunctional situation, but this is not the place or the time to go into detail. But after 10 years of failures, it is legitimate to ask ourselves what we did wrong and what we can do better.

It is obvious to all informed observers that in the first years after indictments were issued there was no political will, on the part of either local authorities in Republika Srpska and Serbia or the international forces in Bosnia and Herzegovina, to arrest Karadzic or Mladic. It was perceived that arrest operations against either of them could undermine the stability of Bosnia and Herzegovina and the security of international troops there. It is particularly well documented that, two years after they were indicted, Karadzic and Mladic were moving freely in Republika Srpska. Karadzic was even giving interviews and running party and State business with the full knowledge of the international community. Mladic even participated in military ceremonies. From 1998 onwards, Karadzic's movements became more discreet and his whereabouts became unknown, while Mladic probably moved his permanent residence to Serbia at that time. Efforts were made in 1998 and 1999 to arrange for Karadzic's voluntary surrender, but eventually he broke off all contacts. It was only after the fall of Milosevic, in 2000, that the international community expressed the political will to bring Karadzic and Mladic to justice. However, that political will was never translated into the creation of the effective operational instruments that would be necessary for that purpose.

What are the principal shortcomings?

First, the circulation of information among the interested actors, domestic and international, is inadequate. Intelligence-gathering efforts are carried out at the national level, and the products of intelligence are jealously guarded by the various national authorities for themselves. Generally,

information, especially when it is relevant, is not shared with other actors — and certainly not with my Office. As a consequence, we cannot compare sources and knowledge that would allow us to make progress towards locating Karadzic and Mladic. It was only after cumbersome procedures and long delays that recently my Office was finally given partial access to useful information obtained by NATO and, previously, SFOR. Those materials are of interest in drawing up a profile of Karadzic's and Mladic's movements, contacts and networks. Sometimes, my Office learned through the media about the existence of key documents seized by the international forces in Bosnia and Herzegovina. The reasons given for those unhelpful practices are the necessity to protect sensitive sources and methods of work, as well as the suspicion that such documents and intelligence could be leaked should they reach the Office of the Prosecutor.

A high degree of confidentiality is an understandable condition for intelligence activities when early disclosure could threaten the lives of individuals involved or jeopardize arrest operations. However, most of the information collected in the course of search operations or intelligence-gathering activities is not that sensitive from an operational standpoint. Still, it is rarely shared with others. Furthermore, the Office of the Prosecutor has in recent years proven that it can handle intelligence adequately so as to facilitate surrenders by national authorities. Data provided by my Office prompted the surrender of Ljubisa Beara, Momir Nikolic and Milan Lukic, to name just a few. The Council may recall that my staff took pictures of Goran Hadzic while he was tipped off and as he fled.

My second point is that, beyond the sharing of data itself, there is also a lack of coordination of efforts, which has counterproductive effects. In Bosnia and Herzegovina, for instance, since we were unable to learn who was doing what to track Karadzic and Mladic, we asked local authorities to implement certain surveillance measures. At that point in time, and without consulting or informing my Office, a third party interfered to request those authorities to discontinue those measures. My attempts to receive explanations were never answered. Such communication gaps feed the confusion and cannot lead to positive results. Karadzic in particular is fully aware of the unorganized way in which the

international community is proceeding against him, and he is taking full advantage of it. In an undated letter that reached my Office only recently, but which was probably written shortly after he disappeared, one of his close supporters wrote to him,

"I found out from a source that SFOR forces take action in certain cases exclusively on the basis of approval by their Governments and not from some centre. That should be taken advantage of Exclude any kind of communications except through couriers. I think that, from what can be found in various manners, some action aimed at capture is nevertheless of a limited nature, and they will avoid risky, spectacular actions".

He planned well indeed.

Thirdly, the capture of Radovan Karadzic and Ratko Mladic is no longer such a high priority for the international community that it would justify allocating substantial technical and human resources to it. Most international intelligence assets have left the Balkans. We must therefore rely principally on local authorities in Republika Srpska and Serbia and Montenegro to carry out the arrests. Until recently, there was no political will on the part of either of those parties to aggressively go after Karadzic and Mladic. That has now changed, at least at the level of rhetoric. Numerous statements have been made by Serb and Bosnian Serb political, and even religious, leaders saying that Karadzic and Mladic must be brought to The Hague. However, those intentions at the top have not necessarily filtered through all the layers of the institutions involved.

To sum up this most crucial issue, my main partners in the hunt for Karadzic and Mladic are now the Government of Serbia and Montenegro and the relevant authorities of Bosnia and Herzegovina. The international community, through the use of conditionality, is providing political incentives for local authorities to arrest those indictees. On operational issues, however, the involvement of the international community has been minimal, at least over the past two years. I am ready to provide the Council with more details, but they should not be discussed in a public meeting.

On the basis of this assessment, I would like to offer as possible remedies a few suggestions relating to

efforts that I have been pursuing in recent months despite my limited resources.

First, mechanisms must be set up or revived that offer the possibility for meaningful planning and exchanges of information between those involved in intelligence-gathering activities. The relevant national authorities, inside and outside the region, and international organizations, including the ICTY, should join forces in setting up such a framework for sharing information on Karadzic and Mladic. Since last spring, I have taken the initiative to encourage Serbia, Montenegro and the relevant services in Bosnia and Herzegovina to intensify their cooperation, both among themselves and with my Office. That has already produced some results, but further energy should be put into that effort. I would expect all international assets present in the region also to take part in that coordinated effort. International actors must finally cooperate with each other and with the ICTY, not only promptly sharing information on the location of fugitives, but also coordinating operations against fugitives or their support networks. I have developed a fruitful relationship at the highest levels with the civilian and military leadership of NATO in that context, and I believe that the situation has begun to improve very recently.

Secondly, the current efforts aimed at breaking the support networks protecting Karadzic and Mladic must be further aggressively pursued. My Office is in contact with NATO and EUFOR in Sarajevo, and we are working on a joint programme in that context. However, the strategy will be much more likely to bear fruit should it be complemented by efficient intelligence and operational activities. Furthermore, it comes very late in the day. Such comprehensive strategies should have been put in place long ago.

Thirdly, the States of Bosnia and Herzegovina and Serbia and Montenegro must be held accountable for their failure to bring Radovan Karadzic and Ratko Mladic to justice. At the end of the day, the responsibility is theirs, and the international community will increasingly want to limit its involvement to a supportive role in that process. Experience shows that political pressure from the European Union and the United States is the most significant factor encouraging the States of the former Yugoslavia to transfer indictees to The Hague. The first half of 2005 demonstrated how efficiently international pressure works. Unfortunately, a number of deadlines

have passed in the second half of the year, including the commemoration of Srebrenica, the anniversary of the Dayton-Paris accords, and the beginning of negotiations between the European Union and Serbia and Montenegro, but no progress has been recorded on Karadzic and Mladic. As the two most important leaders responsible for the worst crimes are still at large, the international community must remain fully committed.

As the Prosecutor of the ICTY, I am expected to do my utmost to bring all indictees to justice. However, there is no domestic judicial system in which the prosecutor has such limited coercive powers and cannot instruct police forces to collect intelligence or arrest accused individuals. Let me stress that, under article 29 of the Statute, all States are legally obligated to comply without undue delay with any request for assistance. Moreover, resolution 1534 (2004) of 26 March 2004 calls

"on all States ... to intensify cooperation with and render all necessary assistance to the ICTY, particularly to bring Radovan Karadzic and Ratko Mladic... and all other indictees to the ICTY". (*resolution 1534 (2004), para. 1*)

If the States having the power to locate them are not interested in providing information or in otherwise cooperating with my Office in the search, then it certainly makes the fulfilment of the Tribunal's mandate impossible. That assessment reflects the situation regarding Karadzic, Mladic and the other fugitives who are within the reach of Serbia and Montenegro and Bosnia and Herzegovina. Goran Hadzic, Zdravko Tolimir and Stojan Zupljanin are all within reach of the authorities of Serbia and Montenegro. Tolimir should be tried together with his eight co-accused for the crimes committed in Srebrenica. Djordjevic's transfer is urgent because his trial, too, is due to open towards the middle of next year. Regarding Zupljanin, my plan is to have a joint trial with an accused, Mico Stanisic, who has already appeared before the ICTY.

Serbia and Montenegro's cooperation has, unfortunately, deteriorated in the past months. There is no serious, well-articulated action plan on the fugitives. Moreover, there is a lack of coordination between the State Union authorities and the two Republics' Governments, and the rivalry between the involved agencies is palpable. The information passed

to my Office is scarce and unconvincing. The army of Serbia and Montenegro continues to hamper, both actively and passively, the cooperation of Serbia and Montenegro with the ICTY. Serbian civilian authorities admit today that the army as an institution was protecting Ratko Mladic until as late as at least May 2002. They contend that that is not the case anymore. However, on other issues — such as access to military documents, for instance, Mladic's military and medical files, or documents related to Kosovo — the military authorities of Serbia and Montenegro obstruct cooperation with my Office, despite the admirable efforts of the National Cooperation Council's President and the assurances given to me by the civilian authorities.

I would note that, on my recent visit to Belgrade, the authorities again gave assurances that we would be given full access to those materials, but it remains to be seen if those assurances will be honoured. However, in view of the authorities' unwillingness thus far to provide me with those materials, I have requested the Chamber to issue binding orders. The irony is that some of the materials are sometimes produced by defence witnesses in the Milosevic case. From whom did they obtain them, if not from those who refuse to provide them to us?

In Kosovo, too, my Office encounters difficulties in accessing documents from the United Nations Interim Administration Mission in Kosovo (UNMIK). They are at times redacted or delivered in such a way that they cannot be used in court. The cooperation provided by UNMIK in the protection of witnesses has also been sometimes less than optimal. Furthermore, my Office is not convinced that UNMIK is properly exerting its control over the conditions set by the Chambers for Haradinaj's provisional release.

Indeed, as was also noted by Ambassador Kai Eide in his recent report, the intimidation of witnesses is a grave problem in Kosovo. It is widespread and systematic and has a very serious impact on court proceedings at the ICTY. In the Limaj case, several witnesses eventually refused to appear and testify in front of the court, or withdrew or changed their testimony because they were intimidated or afraid.

The arrest of the remaining six fugitives and access to key documents and witnesses are issues deeply affecting the completion strategy. They are largely beyond our control, even though my Office

continues to use all means at its disposal to try to make progress towards their arrest. We are confronted with powerful structures that see no interest in cooperating with the ICTY. Among the issues which are under the control of the ICTY, let me mention three areas where significant progress has been achieved since my last report.

First, we have continued to pursue consistently our policy of referring cases involving mid- and low-level perpetrators to domestic jurisdictions. Three cases involving four accused have already been transferred to the State Court of Bosnia and Herzegovina and to Croatia. Six other motions involving 12 accused are pending before the Chambers. We are also preparing for the transfer of non-indicted cases to Croatia, Serbia and Montenegro, the former Yugoslav Republic of Macedonia and Bosnia and Herzegovina. It will be up to the local judiciaries to decide whether to complete the investigations and prosecute the cases.

Secondly, we have undertaken to save time and resources by proposing to the Chambers that they join certain cases where there are similar crime bases. One motion involving seven accused, including Djordjevic, who is, unfortunately, still at large in Russia, was approved by the Chambers. Another motion involving nine accused, including Tolimir, who is at large in Serbia, was also approved by the Chambers. Both trials are scheduled to begin towards the middle of 2006.

Thirdly, we have taken steps to adapt the structure and management of the Office to the evolution of the completion strategy. Next year, 2006, will be the busiest period in the Tribunal's history. We expect to have some 33 accused on trial, as compared with 2005, when 12 were on trial. Despite that increased activity, significant reductions in staff were made in the Office of the Prosecutor following the conclusion of the first phase of the completion strategy. The size of the investigation division has been reduced by 37 per cent, or 79 posts. Furthermore, in the context of the 2006-2007 budget, the redeployment of 15 posts from the investigation division to the prosecution division and the appeals section has been proposed.

I wish to express my thanks to the Governments of Croatia and of Spain for having brought Ante Gotovina to The Hague. My gratitude also goes to the European Union and its member States for having provided the ICTY with the political support that

contributed so much to that result. Gotovina's arrest will also be positive for the completion strategy. I will request the Chambers to join his case with those of Cermak and Markac, two other former Croatian generals who are currently on provisional release. We will save a substantial amount of court time and resources.

On 29 September, the Croatian authorities provided me with indisputable evidence that Ante Gotovina was in Spain. Croatia established immediate contact with the Spanish authorities, and we quickly learned that he was in the Canary Islands. I had told the Council in June that Croatia would be considered to be cooperating fully if either Gotovina was in The Hague or if Croatia provided me with actionable intelligence on his whereabouts. Since the latter condition had been met, on 3 October I was pleased to inform the European Union Task Force for Croatia that, indeed, Croatia was fully cooperating with us. For operational reasons, however, details were limited to a small circle in Zagreb, Spain and The Hague. As all Council members know, Gotovina was arrested on the island of Tenerife on 7 December. The successful outcome of that operation shows that the methodology was correct.

That can serve as a model to help us to overcome the difficulties facing us in Bosnia and Herzegovina and in Serbia and Montenegro. The key to success was a combination of international incentives, provided mainly by the European Union's consistent policy of conditioning European Union accession upon full cooperation with the ICTY, and an effective joint operational plan between Croatia and the ICTY. The United States also provided valuable support by insisting that Croatia could not join NATO before Gotovina was at The Hague.

With the exception of Spain, since the end of September there has been no involvement by outside actors. After the European Union postponed, in March this year, the beginning of accession talks with Croatia, the authorities drew up, together with the ICTY, an operational plan, and its implementation started in April. The operation was coordinated on the Croatian side by a very limited number of highly motivated, highly professional individuals under the leadership of the State Prosecutor, who had received proper, strong backing from the political leadership. They were entitled to instruct all relevant services. A solid relationship of trust, based on full transparency, was established with my Office. Only a small number of

individuals from my Office were involved — first and foremost the Chief of my Investigation Division.

After the operation was launched, we received well over 100 reports from various Croatian agencies which were, for the most part, of a good professional quality. Those reports were reviewed in The Hague and suggestions were made so as to direct further action. The mix of political will and operational effectiveness leads to results.

In conclusion, for 10 years we have been facing grave systemic deficiencies in the efforts made to capture Karadzic and Mladic. There is no coordination mechanism; there is not even a desire to coordinate the various activities, to say nothing about sharing the most basic information.

For 10 years the international community has been playing cat-and-mouse with Karadzic and Mladic. For much of that time, the cats have chosen to wear blindfolds, to claw at each other and to allow the mice to run from one hole to another. It is time now for the cats to remove their blindfolds. It is time for the international community and the local governments, especially in Serbia and Montenegro and Republika Srpska, to take concerted action to find the places where those fugitives are hiding, to arrest them and to turn them over to the ICTY, so that it can administer the justice that the Security Council promised the people of the former Yugoslavia in 1993. It is time now for the cats to stop suffering the ridicule of the mice.

The President: I thank Ms. Del Ponte for her briefing. I give the floor to Mr. Hassan B. Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

Mr. Jallow: I am deeply honoured to have been given this opportunity to report once again to the Security Council on the progress of the implementation of the completion strategy of the International Criminal Tribunal for Rwanda (ICTR).

Since our last report to the Council, in June 2005, a number of significant developments have occurred in the implementation of the completion strategy. Those have been set out in the revised completion strategy document which His Honour Judge Erik Mose, President of the ICTR, submitted to the Security Council on 5 December 2005 following consultations with the Office of the Prosecutor and the Registry.

Those developments were also highlighted in his address today to the Council.

During that period, we were able to commence new trials, conclude the prosecution of some cases after full trial or on a negotiated guilty plea, apprehend some indictees and register steady progress in the ongoing trials of what is now the largest number of accused ever to be put on trial simultaneously at the ICTR.

Six months ago, I informed the Security Council that the focus of the Office of the Prosecutor in the coming months would be to ensure that the ongoing cases proceeded efficiently, to prepare the cases of the remaining detainees to ensure their trial readiness, to undertake the effective tracking and arrest of the indicted fugitives and to commence referral proceedings under rule 11 *bis* of the ICTR rules of procedure and evidence in respect of indictees to national jurisdictions for prosecution. That focus remains the same.

In addition to those areas, the allegations made against the Rwandan Patriotic Front (RPF) have also been under consideration. Following the evaluation of the results of earlier investigations, it has become necessary to carry out additional inquiries into the allegations. Those inquiries are already in progress. I have also been holding discussions with representatives of the Rwandan Government concerning the options that are available for the prosecution of any such cases which may arise as a result of such further inquiries.

In the past six months, substantial efforts have been deployed by the staff of the Office of the Prosecutor to ensure the trial readiness of the remaining cases. This has resulted in increased missions by staff to locate and reconfirm witness availability. Such case preparation will continue to be a major activity of my Office. At present, our focus is to ensure in this respect that the cases of six more accused are ready to commence trial in 2006, subject to readiness of the defence and the availability of courtroom space.

The ongoing trials are proceeding satisfactorily, and, barring unforeseen delays which may arise, we expect hearings of the major multi-accused cases of at least the Military I, Government II and Butare cases — which involve the prosecution of, respectively, four, four and six accused — to be concluded by the end of

2006. Their conclusion should leave considerable room for the remaining cases to be dealt with and concluded by 2008.

Following the conclusion of new investigations at the end of 2004, the strength of the investigation division in Kigali will be reduced considerably in the context of the 2006-2007 budgets and again in 2008. As I reported to the Council in June, it is necessary to retain some capacity in the division, although in declining numbers up to closure in 2010, to meet the needs of trial support, appeal support and the tracking of fugitives, as well as witness and confidential sources management.

The negotiation of guilty pleas with accused persons remains an important element of the completion strategy. Since the last report to the Council, my Office has successfully negotiated a guilty plea with Paul Bisengimana, former bourgmestre of Gikoro. On Wednesday 7 December, he appeared before the Trial Chamber, which accepted the guilty plea agreement. That brings to two the number of guilty pleas concluded in the course of this year. Negotiations are in progress with several other accused persons, and I remain optimistic that some other guilty plea accords will be concluded shortly.

Soon after the most recent report to the Council in June this year, I handed over 10 case files to the Rwandan Prosecutor General to consider prosecuting before the Rwandan courts. At the end of November — just last month — I handed over an additional five files to the Prosecutor General. This brings the number of cases that I have now handed over to Rwanda to 30 case files. They are files of targets who had been under investigation but who have not been indicted or arrested. The 30 files form part of the total of at least 45 files that I will seek to refer to national jurisdictions either under rule 11 *bis* relating to indictees or by handing over dossiers to national prosecution authorities in relation to non-indictees.

I have also referred two cases to a European jurisdiction which has agreed to consider the targets for prosecution. This is in addition to one case which has already been referred to a European jurisdiction and whose prosecution has commenced. Three other case files are under review for referral to other national jurisdictions.

The cases which now remain for transfer relate to persons who have been indicted, five of whom are in

custody and eight of whom are at large. Those figures may change in due course.

The referral of indictees under rule 11 *bis* of the rules is based on the order of a Trial Chamber to a State that is able and willing to take on the cases with guarantees of a fair trial and of the non-application of the death penalty. The success of that strategy therefore depends essentially on State cooperation.

My Office has not been able so far to submit any applications under rule 11 *bis* for transfer of indictees, as we had hoped this year, as no State is as yet both able and willing to take these cases. We continue to await responses from two European countries to which I have sent requests for consent to prosecute a number of cases falling within that category.

I have also been reassured that Rwanda remains ready to receive cases of indictees on transfer from the ICTR under rule 11 *bis* and that it will be taking the necessary measures relating to guarantees of fair trial procedures and the abolition of the death penalty in order to clear the way for this process to begin.

In addition to taking these measures, of course, Rwanda would require substantial resources to help develop the capacity of its legal system effectively to prosecute such cases. My consultations with European Union representatives in Kigali, Rwanda, as well as with representatives of other countries, indicate a commitment from them to assist Rwanda in that respect. That is very welcome. Efforts should be deployed urgently to ensure that all the legislative and other obstacles to the referral of cases to Rwanda are removed in order to enable that policy be implemented early in the coming year.

A reinvigorated tracking programme has yielded dividends in the last six months. Of the eight new indictees, three have been arrested and are now in the custody of the Tribunal. Joseph Serugendo, former technical director and founding member of the notorious Radio Télévision Libre des Mille Collines (RTLM), was arrested in Gabon with the assistance of the Gabonese law enforcement authorities. I would like to place on record our appreciation to the Government of the Republic of Gabon for its strong collaboration with the Tribunal in the apprehension and transfer of this fugitive.

Michel Bagaragaza, a former director of the National Tea Industry and a member of the shadowy

Akazu power group behind the former Government, and Callixte Kalimanzira, the former Acting Minister of the Interior during the genocide, also surrendered to, and were taken into custody by, the Tribunal following their location by my Office's tracking team.

The tracking and apprehension of fugitives nonetheless continues to be a major challenge for the ICTR. There are now 19 indictees at large, many of whom, according to our sources, continue to hide in inaccessible areas of the Democratic Republic of the Congo. Among those still at large is Félicien Kabuga, a businessman who devoted his considerable resources to funding the genocide. He has been indicted for his role in the creation, funding and management of the RTLM "hate" radio, and in the funding, arming and provision of logistical support to the interahamwe for the declared purpose of extermination of the Tutsis and moderate Hutus. It should be recalled that, by operative paragraph 3 of its resolution 1503 (2003) of 28 August 2003, the Security Council called on all States, especially Kenya, among others,

"to intensify cooperation with and render all necessary assistance to the ICTR, including ... efforts to bring Félicien Kabuga and all other such indictees to the ICTR".

That call by the Council was undoubtedly based on the close connections that Kabuga had had with Kenya since 2002, when he was reported to be residing in that country. It will be recalled that efforts to arrest him in that country in 2002 failed.

The intelligence available to my Office since then has confirmed that, at least since January 2005, Félicien Kabuga has been residing in Kenya and carrying on business there as well. His presence at various locations in the country has been confirmed by our tracking team and by other sources. As a matter of fact, efforts to arrest him on the outskirts of Nairobi in June 2005 failed because the operation appeared to have been compromised by leaks. Our investigators have shared their information and intelligence with the law enforcement authorities of Kenya. I have travelled to Nairobi twice — in February and September 2005 — and held meetings with senior Government officials, during which I briefed them fully on the situation.

I have had assurances from the Kenyan authorities of their full cooperation and commitment with respect to the arrest and transfer of Félicien

Kabuga. Nonetheless, according to our intelligence, he remains in Kenya. The Government of Kenya should therefore be encouraged to make more intensive efforts to track, arrest and hand over Félicien Kabuga to the ICTR, as well as to track and seize all his known assets in Kenya.

With regard to the other fugitives, the tracking team will continue to intensify its efforts, and, with the requisite cooperation from States, we anticipate more arrests in 2006.

My office has had significant assistance from certain Member States in the past six months in the matter of relocation and protection of witnesses as well as of family members of high-level insider witnesses. Such assistance has been crucial in enabling us to access crucial but hitherto unavailable evidence on the role played by those in power at that time in Rwanda in planning and implementing the genocide. I should like to record our appreciation to those countries for their support in this respect.

At the ICTR, we remain confident of our ability to complete the trials as well as the appeals of all those persons who are currently in our custody within the completion strategy deadlines. Our commitment to the strategy deadlines remains constant, but meeting those deadlines depends on the continued provision of the necessary resources and on the continued support of Member States.

The challenges we face remain twofold: the arrest of the remaining 19 fugitives, and the referral to national jurisdictions of the cases that have been so earmarked, including the cases of some of the 19 fugitives. All Member States should be urged to fulfil their legal obligations by arresting and transferring fugitives who are in their territory to the Tribunal. It is important for the struggle against impunity that all the indictees be prosecuted, whether at the ICTR or elsewhere. Member States should share the burden of prosecution with the ICTR by accepting cases on referral or by helping to build capacity in those States that are willing, in order to enable them to accept cases. These challenges can be effectively handled only with the fullest State support and cooperation. We continue to make appeals to that end.

Relations between the ICTR and Rwanda remain very good. As the President has reported, the Government continues to cooperate with the Tribunal

in respect of seeing to the availability of witnesses as well as in regard to documentary evidence.

Finally, Mr. President, I should like to conclude by thanking you and the members of the Security Council, the Secretariat and all the organs as well as Member States of the United Nations for their cooperation and support of the Tribunal in ways that continue to facilitate the implementation of the completion strategy.

The President: I thank Mr. Jallow for his briefing and will now give the floor to members of the Council who wish to make comments or ask questions.

Mr. Motoc (Romania): I am pleased to begin by welcoming to this Chamber the Presidents of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), as well as their Chief Prosecutors, and by thanking them for their very thorough presentations on the efforts by the two international Tribunals over the last six months to implement their respective completion strategies. We value the depth and the breadth of the briefings we have just heard, especially since this is a time of reflection on the legacy of these landmark international jurisdictions. I am pleased to report that during the reporting period Romania continued to take concrete steps in support of ICTY work in particular.

I should also like to take this opportunity to congratulate Judge Fausto Pocar upon his recent election as President of ICTY and to wish him every success in his future endeavours.

The apprehension and transfer of General Ante Gotovina to ICTY custody represents the most significant achievement of the last six months and, at the same time, a landmark in the overall activity of the Tribunal. I should like to commend, in this regard, the ICTY Prosecutor for her tireless efforts to arrest and bring to justice the highest-level alleged perpetrators of the most serious crimes known to mankind, committed in the territory of the former Yugoslavia.

The level of cooperation with the Tribunal extended by Croatian authorities throughout the reporting period, culminating in their decisive contribution to locating General Gotovina, sets the bar high for all the countries in the region that are still lagging behind to varying degrees in fully complying with their Tribunal obligations. We note, however,

positive developments in the cooperation by all countries concerned with the Tribunal, which has resulted, *inter alia*, in the surrender to the ICTY of 20 new fugitives over the past year.

Romania also notes with satisfaction that the number of indictees still at large has been reduced to six and encourages all relevant actors — States in the region above all — to step up their efforts to bring the remaining fugitives to justice. It remains our belief that their arrest and transfer to The Hague would clear the path to increased participation by Western Balkan countries in European and Euro-Atlantic processes.

Regarding the work of the ICTR and its Chief Prosecutor, my delegation appreciates the information he has just presented with regard to the most prominent fugitive indicted by that Tribunal, Félicien Kabuga.

We are encouraged to note the significant progress achieved so far by both Tribunals in implementing the terms of their respective completion strategies as set out in Security Council resolutions 1503 (2003) and 1534 (2004). In particular, we welcome the efforts by both the ICTY and ICTR to continuously improve the effectiveness of the proceedings before the two Tribunals and the talks they conducted with the Governments of relevant countries on the transfer of cases to domestic jurisdictions.

As repeatedly stated by my delegation, transfer of cases involving medium- and low-level accused to national jurisdictions is an essential component of the completion strategy. While a number of cases have already been referred to the newly established Special War Crimes Chamber in Sarajevo and to local courts in Croatia, no such cases have yet been transferred to either Serbia and Montenegro or Rwanda. We therefore encourage the officials of both Tribunals to pursue their efforts to consolidate the capacities of domestic criminal justice systems to deal with such cases. We deem it equally important that all countries concerned continue the process of adapting their legal frameworks so as to comply with the existing international legal standards.

As indicated in the assessment submitted by the ICTY Prosecutor, one of the main concerns of her Office with regard to Kosovo-related cases has to do with the insufficient protection of witnesses. According to Ambassador Eide's recent statement before the Council, quoted in the aforementioned assessment, intimidation of witnesses is a very serious problem in

Kosovo, as it represents a daily challenge for the prosecution. We also note, in this regard, that 22 out of the 44 accused currently awaiting trial have been provisionally released, some of them indicted for alleged crimes committed in that province. We would very much welcome the inclusion in the next report to be submitted to the Council of a separate annex containing the names of the indictees who have been released and, eventually, the grounds on which those indictees have been provisionally released.

Mr. Rogachev (Russian Federation) (*spoke in Russian*): I would like to thank the heads of both Tribunals for the briefings they have given us and for the reports submitted to the Security Council pursuant to resolution 1534 (2004) on the progress made in implementing their completion strategies. The Russian Federation continues to believe in the need for strict compliance by both Tribunals with their completion strategies within the time frames set out by the Security Council.

We note with satisfaction that since the last discussion by the Council, in June of this year, progress in the completion strategy has been quite tangible. We believe that the transfer of a number of accused, especially General Gotovina, to the ICTY makes the timely conclusion of the trial proceedings entirely possible.

We proceed from the premise that one of the most important components in the process is the referral of cases of intermediate and lower-level accused to domestic courts. In this connection, we would like to point out the growing efforts to strengthen the potential of judicial bodies in the Governments of the former republics of Yugoslavia, first and foremost, Bosnia and Herzegovina. At the same time, we understand the difficulties encountered in this regard by the ICTR.

We deem useful the activities of the leadership of the ICTY in the joinder of cases, in particular the multiple accused cases mentioned by the Tribunal President, Mr. Pocar, beginning in February next year. It would be interesting to consider possible options for the use of stand-by judges in the aforementioned three trials with a view to ensuring continuous consideration of these cases. We hope that other Council members also have an interest in this idea on the whole design to comply with the time frame for the completion strategy in the Tribunals' work.

One important element that enhances the effectiveness of the work of the ICTY and the ICTR is their uninterrupted financing and staffing. In this connection, I would like to call attention to the election of ad litem judges for the ICTY in August of last year, for which we needed to have some changes in the Tribunal's statute. Another useful personnel decision was the appointment, at the request of the leadership of the ICTY, of Christine Van Den Wyngaert as a judge for the *Mrksic et al* trial. She began her duties as a permanent judge earlier than scheduled.

We believe that the exceptional measures taken by the Security Council and by the General Assembly will help to maintain the rapid pace of the ICTY's work and the timely implementation of the completion strategy.

We are convinced of the need to apprehend and to try those who are accused of committing the most serious crimes that come within the purview of the ICTY and the ICTR. We note with satisfaction that the Yugoslav Tribunal has managed significantly to increase its cooperation with the States of the region in this sphere.

We believe it appropriate to say, once again, that the competent Russian bodies currently are conducting consultations with ICTY representatives for a definition of the modalities for transfer of a detainee on the territory of the Russian Federation, Mr. Dragan Zelenovic, to The Hague.

We believe that the recently observed waning of interest in the work of the Tribunals, reflected particularly by the difficulty in finding candidates for ad litem judges, shows the importance of the timely implementation of the tasks incumbent upon the ICTY and the ICTR.

Mr. Babadoudou (Benin) (*spoke in French*): My delegation wishes to join previous speakers in expressing thanks to Judges Pocar and Møse, as well as to Ms. Carla Del Ponte and Mr. Hassan Bubacar Jallow, for the briefings they have given us on the activities they have carried out within the completion strategy for both Tribunals by the year 2010. After having listened with great interest, my delegation is rather encouraged by efforts made over the past six months, particularly with speeding up internal procedures, referring some cases to national jurisdictions, and so forth. In particular, I would note the establishment of a working group within the ICTY,

which has made proposals that, I believe, are rather wise and will help speed up the work in that jurisdiction.

Secondly, my delegation remains somewhat pessimistic with regard to the two Tribunals accomplishing their tasks by 2010. If we take account of the comments and remarks by the Presidents and Prosecutors, in particular those by President Pocar, we feel that there are sufficient imponderables, factors that are beyond their control that might well delay proceedings. We believe that we will need to work in concert with the States concerned and with the will of States involved in order to hunt down fugitives as fast as possible, because we believe that that is where the main task lies. Until we get our hands on those fugitives it will be very difficult to predict the length of the mandate, unless we can foresee now that those individuals still at large may never be arrested, in which case it would be necessary to try them in absentia.

Thirdly, we believe that further means need to be made available for the construction of a new courtroom, as well as for an increase in the number of Appeals Chamber judges and ad litem judges. We have been told here how useful those judges are.

Fourthly, we believe that both Tribunals must pursue efforts to improve their internal management and efficiency, as well as measures to speed up proceedings. All of this must be done, however, with full respect for the principles of equitable justice and respect for the human rights of the detainees; that is essential. We also need cooperation from States, as we have already said.

Finally, the Security Council must be able to see its responsibilities through to the end.

For my delegation, the completion of the work of these Tribunals cannot be measured in time, but rather when we have brought the last suspects to the Tribunals and when the victims feel that justice has been done. Then, we can consider the work of these Tribunals to have been completed.

Mr. Sardenberg (Brazil): I would like to congratulate Judge Fausto Pocar on his election to the presidency of the International Criminal Tribunal for the Former Yugoslavia (ICTY) last November. I thank Judge Pocar and Judge Erik Mose, as well as Prosecutors Carla Del Ponte and Hassan Bubacar

Jallow, for their thorough reports on the level of progress achieved in the work of the two Courts, as well as on the still prevailing difficulties and the current efforts to tackle them.

The ICTY and the ICTR should be seen as successful examples of the commitment of the United Nations to ensuring that those responsible for the most heinous crimes, which offend the very essence of human dignity, answer for them in public trials. It is necessary that the Tribunals remain committed to the goals set forth by Security Council resolution 1534 (2004), while concentrating resources and efforts to promote justice in the former Yugoslavia and in Rwanda.

Concerning the ICTY, the arrest of Ante Gotovina in Spain early this month is a major step in the fight against impunity in the former Yugoslavia. States and entities of the former Yugoslavia, especially Republika Srpska within Bosnia and Herzegovina and Serbia and Montenegro, among others, should intensify, as requested, their cooperation with the Court regarding the arrest of the remaining high-level accused, including Karadžić and Mladić.

Brazil underlines that the rigid deadlines set out in the completion strategy may frustrate justice, rather than assist the international community to end impunity. Yet my delegation would like to commend the President of the International Criminal Tribunal for the former Yugoslavia and his predecessor, Judge Meron, for their efforts to accelerate the proceedings and trials of the Tribunal, while meeting the highest standards of international justice and due process of law. The working groups on speeding up appeals and trials, the joinder of cases and the e-Court system are positive initiatives, which bring efficiency to the work of the Tribunal and contribute to preserving the goals of the completion strategy.

My delegation is also pleased to note that the adoption of resolution 1597 (2005), which removed the prohibition on the re-election of ad litem judges, has contributed to the efficient functioning of the Tribunal. In the effort to preserve the success of the completion strategy, we would like to stress the need for enhanced cooperation among the organs of the Tribunal: the Chambers, the Registry and the Prosecution.

Judge Pocar reports that the Tribunal has been careful to ensure that a fair trial will be accorded to defendants transferred to competent national

jurisdictions. In that respect, we understand that the initiatives in capacity-building, in particular the strengthening of the rule of law in the former Yugoslavia, greatly contribute to reconciling the Court's concerns about the referral of the cases of intermediate- and lower-ranking accused with the need to obtain justice.

With respect to the International Criminal Tribunal for Rwanda, in his latest report, Judge Mose informed the Council that the number of accused whose trials have been completed or are in progress is now over 50. The number of accused still at large, however, is cause for concern. For that reason, my delegation supports the Prosecutor's efforts to visit Member States to seek political cooperation in the arrest and the transfer of fugitives.

We also welcome the Prosecutor's decision to transfer non-senior detainees to national jurisdictions whenever a country's judiciary structure allows it. The report mentions that, as the workload of the Trial Chamber decreases, the focus will shift to the Appeals Chamber, where an increase in work is anticipated.

My delegation agrees that the number of judges will need to be reviewed at some future stage and that periodic reports of the Tribunal will help us to assess the evolving situation.

The international community faces the challenge of reconciling the inherent limitations of ad hoc judicial arrangements with the principle of due process and the rights of both victims and those accused, as well as with the overall objective of putting an end to impunity.

In considering the prospects of the completion strategies of both Tribunals, Brazil understands that it is essential that the Tribunals continue to be able to rely on adequate resources and personnel to perform their functions. Financial difficulties pose a constant threat to the accomplishment of their duties and their ability to carry out their completion strategies.

Mr. Mayoral (Argentina) (*spoke in Spanish*): At the outset, we wish to express our thanks for the presentation of the periodic reports of the International Tribunals for the former Yugoslavia and Rwanda and for the briefings of their Prosecutors, which have enabled the Council to make an informed assessment of progress in their work from June to November 2005, in particular of the progress made in carrying out their

completion strategies. I especially congratulate Judge Fausto Pocar on his appointment as President of the International Criminal Tribunal for the former Yugoslavia.

I am pleased to note that the Appeals Chamber, which is shared by the two Tribunals, has continued to operate at full capacity, because, as progress is made on the completion strategies, the Appeals Chamber will be of increasing importance.

We continue to believe that it is necessary to ensure the continuance of the judges assigned to the Appeals Chamber in order to prevent the unnecessary relocation of judges from the Appeals Chamber to the Trial Chamber, which could hinder the efficiency of the proceedings and delay the completion strategy at a time when we all want to do everything possible to prevent any delays, especially when it has been suggested to the Council that, given the workload of the Appeals Chamber, it might be necessary to increase the number of judges assigned to it.

With respect to the International Criminal Tribunal for the former Yugoslavia, we value the efforts carried out by the working groups established by the Tribunal to improve the Tribunal's rules of procedure and evidence and practices, with a view to finding ways to accelerate the Tribunal's proceedings while ensuring due process.

We believe that the role of ad litem judges in advancing the trials is also important, in particular after the Council has had to adopt a series of resolutions to facilitate the process of electing and assigning those judges.

The referral of cases of lower-ranking accused is another important element for facilitating the Tribunal's completion strategy. But we believe that such referrals should be accompanied by sufficient guarantees that due process will be respected. We believe that one way to ensure that is through collaboration in the training of the local justice officials who will take over those trials.

We welcome the fact that cooperation with the Tribunal has, in general, been satisfactory, except in the case of Republika Srpska. We wish to underline two cases in particular.

Mr. Ante Gotovina, one of the most notorious of the accused, has recently been transferred to the Detention Unit of The Hague. We hope that his arrest

will give momentum to progress in the work of the Tribunal.

The other case that we wish to underline, and which has been mentioned here, is that of the arrest in my country of Mr. Milan Lukić. We believe that those arrests represent good cooperation between our Governments and the Tribunal. The Argentine judicial system is now in the process of extraditing Mr. Lukić. We hope that the extradition will take place as soon as possible.

With respect to the International Criminal Tribunal for Rwanda, we hope that, in the course of next year, the trials of the 17 accused awaiting trial will begin, whether those trials take place at the Tribunal itself or under national jurisdictions in accordance with the criteria set by the Prosecutor for the referral of cases to national courts. In the case of referral to national jurisdictions, we believe in the need for sufficient guarantees to ensure that due process will be respected and that national legislation does not include death penalty. We also believe that all efforts must be made to bring to justice suspects who have not yet been detained.

Finally, with respect to the completion strategies of the two Tribunals, we know that it is not easy to provide precise dates for a process that is of an exceptional nature and without international precedents. We believe that when values such as personal freedom and the guarantees of due process are at stake, we cannot set them aside in order to meet urgent deadlines.

Nevertheless, we believe that we must bear in mind the need to avoid further delays, which could affect the efficiency and credibility of these jurisdictions created by the Security Council 10 years ago. They are undoubtedly among the main precedents and examples for the creation of the International Criminal Court. We believe that the success and efficiency of the work of the International Tribunals for the Former Yugoslavia and Rwanda will without doubt influence the support and cooperation provided to the Criminal Court by the international community.

Mr. Kitaoka (Japan): First I would like to thank the Presidents of both Tribunals, Judge Fausto Pocar and Judge Erik Mose, as well as the Prosecutors of the Tribunals, Ms. Carla Del Ponte and Mr. Hassan Bubacar Jallow, for their reports to the Security Council.

Japan notes with satisfaction that both Tribunals have been making efforts to achieve justice through two avenues: the efficient conduct of their trial activities and the improvement of their management capacity. We appreciate the fact that the Tribunals have worked to accomplish the transfer of mid- to low-level accused to domestic courts. We believe that the closer involvement of local authorities and populations will contribute to the process of reconciliation among the people and to the establishment of the rule of law.

We have also noted with appreciation the efforts made by neighbouring States and by the International Criminal Tribunal for the Former Yugoslavia (ICTY) in the arrest of Ante Gotovina on 7 December. We call for continued efforts to apprehend the key remaining fugitives, especially Radovan Karadzic and Ratko Mladic, and to arrest Félicien Kabuga and transfer him to the International Criminal Tribunal for Rwanda (ICTR).

In his report to the Council, Judge Pocar indicated that despite the efforts of neighbouring States and of the ICTY, trials may not end by the end of 2009 but may continue beyond that date if the remaining fugitives are not apprehended in the coming months. While we understand the concerns that may prompt such an observation, we also feel it necessary to express our concern about the possibility of extending the ICTY's mandate beyond the date envisaged in its completion strategy.

We raise that concern now because, although there are still five years left until we reach the final deadline set by the completion strategies, we believe that it is not too soon to call attention to it. In that connection, our view is that, first, both the ICTY and ICTR should be strongly encouraged to make every effort to complete their activities in accordance with their completion strategies by the final deadline — that is to say, by the end of 2010 — as endorsed by the Council. To that end, all necessary and appropriate measures should be explored, including the transfer of ongoing trials to the domestic courts.

Secondly, if the activities of the Tribunals should continue beyond the deadline set in the completion strategies, it is our view that we should consider the possibility of providing the necessary funding for the Tribunals beyond the deadline through voluntary contributions from States directly concerned and from interested States.

We do not say that out of a lack of commitment on the part of my country to the cause of justice and to ending impunity; on the contrary, our long-term, substantial support to the ICTY and the ICTR is clear. Our more recent major support for and active role in the establishment of the Khmer Rouge trial in the former Democratic Kampuchea is further testimony of our deep commitment in that regard.

However, we would find it very difficult to justify our support for funding the activities of the ICTY and the ICTR out of the regular budget if it were to begin to look like support for what seems like an almost indefinite period. Achieving justice requires not only the will of the international community, but also resolve on the part of the States concerned. Today, we have the International Criminal Court and the special courts in Sierra Leone and Cambodia all funded by contributions from countries directly concerned and with special interest in the matter. That reflects not only budgetary considerations, but also the importance of the active involvement of the relevant States in bringing about justice. Given those circumstances, it would be difficult for us to justify the continued funding of the ICTY and the ICTR beyond the completion target date of 2010 — should it become necessary — other than through voluntary contributions.

From a long-term perspective, the process of achieving justice and ending impunity will require and benefit from a parallel cooperative effort — in addition to international criminal tribunals — that will promote and sustain the rule of law and the mechanism of fair trials at the community and national levels. According to the reports of the Tribunals, the ICTY has developed a cooperative relationship with neighbouring States and regional institutions, and the ICTR has worked on capacity-building in relevant States with regard to techniques for arresting fugitives and for conducting fair trials, through workshops for justice officials. Those are commendable efforts. Ten years have now passed since the establishment of both Tribunals, and we believe that the achievements they have accomplished as a result of those cooperative efforts should be firmly transferred, where appropriate, to practices at the local and State levels with a view to meeting international standards.

In conclusion, we would like to express once again our confidence that both Tribunals will work to ensure the strict implementation of their completion

strategies. We are confident that they will take all necessary measures to attain that objective during the next five years, while at the same time making every effort for capacity-building in the relevant States in order to ensure fair trials that meet international standards.

Mr. Faaborg-Andersen (Denmark): I would like to thank the representatives of the two Tribunals, Judge Pocar and Judge Møse, and Prosecutors Del Ponte and Jallow for their written reports and oral briefings.

Denmark remains a strong supporter of the Tribunals for the Former Yugoslavia and for Rwanda. They make an invaluable contribution to our common endeavour to fight impunity. They are instrumental in the process of national reconciliation, and their impact goes far beyond the cases under their jurisdiction and beyond the countries immediately concerned.

The Security Council has called on both Tribunals to complete all first-instance trial activities by the end of 2008. Denmark welcomes the hard work carried out by both Tribunals, and we encourage them to do their utmost to meet their target dates. While we note that the Tribunal for the Former Yugoslavia is now aiming for 2009, we sincerely hope that the Rwanda Tribunal will be able to meet the deadline, as indicated by Judge Møse today.

Admittedly, it is not an easy task to predict how justice will unfold. The Tribunals themselves are best placed to make the difficult and bold decisions required to keep the implementation of the completion strategies on track and to get the job done on time. We urge the Tribunals to remain vigilant in that regard.

Denmark appreciates the initiative taken by the International Criminal Tribunal for the Former Yugoslavia (ICTY) to speed up its work. Allow me to make a few very specific remarks in that regard.

First, on streamlining the pre-trial phase, we encourage the Tribunal to also make full and active use of guilty pleas by not presenting evidence regarding facts that both parties have already agreed to. Secondly, we believe — as mentioned by Judge Pocar — that a fourth courtroom would greatly enhance the possibility of the ICTY finishing its first-instance and appeal cases by the relevant target dates. And thirdly, for the fourth courtroom to be put to full use, we would have to carefully consider increasing the number of judges. One option could be to increase the number of ad litem

judges from nine to 12. Another would be to allow the permanent judges to sit in more trials at the same time.

Justice must be served in strict accordance with international standards of due process. We appreciate that both Tribunals stress that they are working to ensure exactly that, including for the cases being transferred to competent national courts. Such transfers have great potential for strengthening national ownership of reconciliation, justice and the rule of law. But that potential can be realized fully only if international standards of justice are met. Well designed and timely national capacity-building will therefore often have to be an integral part of these transfers.

I now turn to the obligations of the international community vis-à-vis the Tribunals. We all agree that the primary task of the Tribunals is to bring to justice "the most senior leaders suspected of being most responsible" (*resolution 1503 (2003), seventh preambular para.*) for the crimes within their jurisdiction. The Tribunals cannot make this happen in a vacuum. To meet our Chapter-VII obligations, it is incumbent on all of us to do what is within our power to facilitate the work. That includes close judicial cooperation and intelligence sharing, but also punctual payment of assessed contributions.

On the issue of national cooperation with the Tribunals, we are pleased to see a number of recent positive developments. The arrest of Ante Gotovina on 7 December is indeed a welcome development, but also a long overdue one. It is a forceful reminder that other indictees remain at large, including some whose apprehension and prosecution is of vital importance to our pursuit of justice.

We call on Serbia and Montenegro and, in particular, on Republika Srpska to cooperate fully with the ICTY and to redouble their efforts to apprehend the remaining six fugitives within their reach, not least Radovan Karadzic and Ratko Mladic. Similarly, we call on Kenya to assist in the apprehension of Mr. Félicien Kabuga.

Let me reiterate our full support to the two Tribunals. We will continue to actively follow their work, and we look forward to their next reports.

Ms. Sarne (Philippines): On behalf of my delegation, I wish to extend my warmest congratulations to Judge Fausto Pocar on his election

to the presidency of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and to wish him success in his term and in his future endeavours with the Tribunal. I would also like to extend my delegation's commendation to Judge Theodor Meron for the achievements and progress the Tribunal achieved under his leadership.

At the outset, I would like to thank President Mose, President Pocar and Prosecutors Del Ponte and Jallow for their reports. My delegation notes with satisfaction much of the progress made since their last reports, particularly the changes and new procedures implemented to increase the efficiency of the working methods of the two Tribunals.

On the ICTY, we await the further report of the working group on speeding up trials — in particular its views on increasing the efficient disposal of pre-trial motions. We note with satisfaction that the recommendations of the working group on speeding up appeals, which were implemented in September and November of 2005, have increased the efficiency of proceedings before the Appeals Chamber.

Of particular note is the foresight shown by the court in realizing the importance of e-technology in enhancing its work. The integration of case-related documents into a central electronic database, the e-Court system, increases the accessibility of information needed in writing a judgement. It is the hope of my delegation that technical problems associated with the proper functioning of the system will be remedied soon.

We take note with much satisfaction the apprehension of Ante Gotovina. We laud the efforts of the Spanish and Croatian Governments in facilitating his arrest and his transfer to the ICTY. It is through cooperative efforts among States such as this, that perpetrators of horrific crimes against humanity are brought to justice.

Concerning the International Criminal Tribunal for Rwanda (ICTR), we are encouraged by the efforts of the Prosecutor in formulating a more aggressive programme for tracking and apprehending fugitives and in requesting cooperation with Member States in that regard. In our last intervention, we welcomed the new procedures followed by the ICTR Chambers in restricting the length of examination-in-chief and cross-examination, without unduly detracting from principles of fair trial. These, as well as the adoption of

measures to regulate the pre-trial process and to restrict the number of interlocutory appeals have greatly contributed to the efficiency of the working methods of the Rwanda Tribunal.

We laud all the efforts of the two Tribunals in referring middle- and low-level cases to competent national jurisdictions and undertaking measures to build the local capacity of national courts. While the principal judicial purpose of the two Tribunals has been to recover the universality and equal application of the law, both have also been designed to promote peace by restoring the authority of law and justice in communities that have been victimized by such atrocities. The Tribunals are thus meant to foster national reconciliation.

My delegation believes that the international criminal tribunals represent forums — and even symbols — of transitional justice whose verdicts need to be consolidated through national prosecutions. The restoration of law and justice must then be founded and affirmed in national communities through their laws, courts and constitutions.

My delegation is aware that issues of justice, healing, reconciliation and accountability need to be addressed in a way that is owned by and rooted in the affected communities. Mechanisms for ensuring the engagement and participation of stakeholders across the affected countries are essential.

Building peace and reconciliation and healing the effects of war and violence will require sustained efforts over time. Most of all, sincere and committed support for the people who choose to build their own future and their own processes for reconciliation and healing is likewise needed. It is important to recognize that, in the long run, there can be no reconciliation without justice. For only if there is justice can social healing occur.

My delegation congratulates the Tribunals on carrying out their work at full capacity and integrating time-saving measures that do not detract from the international standards of justice and due process. My delegation is fully cognizant of the challenges and difficulties in achieving the completion strategies, specifically the requirement for the completion of all trials in accordance with the Tribunals' respective mandates. We appeal to all States to fully cooperate with the Tribunals, specifically in bringing the fugitives to justice, as that is crucial to the achievement

of the strategies. My delegation would not want to see any further adjustment to the completion strategies.

Mr. Manongi (United Republic of Tanzania): We join other members in thanking the Presidents of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY), Judge Erik Mose and Judge Fausto Pocar, for their briefings this morning and for their reports. We also congratulate Judge Pocar on his election to the presidency of the ICTY and wish to thank the departing President, Judge Theodor Meron, for a job well done. We also thank Prosecutor Carla Del Ponte of the ICTY and Prosecutor Hassan Jallow of the ICTR for their useful remarks.

The United Republic of Tanzania commends the Tribunals for Rwanda and the former Yugoslavia for their continuing efforts designed to implement their respective completion strategies. The year 2008 as the date for the completion of trials at first instance is fast approaching, as is the year 2010 for the conclusion of all of the work of the Tribunals. The support of the Security Council and of the international community is therefore increasingly becoming critical.

While we note that the ICTR is striving to meet the date set for the completion of its work, we wonder whether the appeals process will be completed by 2010, especially when it is becoming increasingly evident that most of the work will be concluded at the very end of the Tribunal's mandate. The Appeals Chamber is bound to be strained as trials are completed by both the ICTR and the ICTY. For its part, the Council must begin to address the question of increasing the number of judges in the Appeals Chamber to facilitate the desired completion strategy.

We note that the trials of 26 persons are currently taking place in the ICTR, and that it is expected that those trials will be completed beginning in the year 2006. We are concerned that 19 indicted persons are still at large. We note that the ICTR is hopeful that at least 14 of them will be apprehended, as it has embarked on a more aggressive programme to track and apprehend fugitives. We appeal to all Member States to cooperate with the ICTR to arrest the fugitives and transfer them to Arusha so that they can face justice. We join the Prosecutor in commending the Government of Gabon for the cooperation that made possible the recent capture of a fugitive.

We concede that the completion strategy must include the transfer of suspects to national jurisdictions. We also note that the ICTR has already transferred some 30 case files to Rwanda and one file to Belgium, and that it intends to transfer a total of 40 cases. We support the transfer of those trials to the countries where the suspects or fugitives currently reside. Such countries should be assisted in prosecuting those cases. We agree with the Prosecutor of the ICTR that the overriding factor in determining whether or not to carry out a transfer should be compliance by the respective national courts with international standards for fair trials.

We commend various methods adopted by the ICTR to hasten trial proceedings, including the joinder of cases, reducing the number of motions and interlocutory appeals, the disclosure of documents before the commencement of trials and the introduction of a system of morning and afternoon shifts, whereby two cases can be heard simultaneously. We also believe that the election and addition of nine *ad litem* judges has played an important role in implementing the completion strategy.

I turn now to the Tribunal for the Former Yugoslavia, which continues to receive new indictees. Three have been apprehended since the Tribunal's last report, bringing the year's total of new persons accused to 20. Only six indictees remain at large. It is obvious that those new arrivals will have an impact on the ICTY completion strategy. The President of the Tribunal confirms in the current report that the date for the completion of trials is now 2009.

We commend the inventive ways adopted by the ICTY to speed up trials, including the shortening of briefs, the three-court system and expediting appeals and the translation of trial judgements. We have also noted the consensus among the ICTY judges, following their recent plenary meeting, regarding issues that may arise in relation to the trials of multiple accused. Since the alternative solution being offered is an effort to contribute to the Tribunal's completion strategy, our view is that the proposition deserves serious consideration by the Council.

We commend the progress the ICTY is making in referring cases to national jurisdictions. We note from the report that the capacity to handle cases involving complex war crimes is growing steadily in local courts of Croatia, Bosnia and Herzegovina, and Serbia and

Montenegro. We welcome efforts to enhance national capacities through training judges and using visiting judges, among other things. We also note that the Prosecutor has promised to take back those cases where an accused is not afforded a fair trial under a national jurisdiction. We share that view.

It was with great relief that we learned of the recent arrest and transfer to the ICTY of the fugitive former General Ante Gotovina of Croatia. We wish to commend the Governments of Croatia and Spain for their cooperation, which made that outcome possible. We believe that the arrest of Ratko Mladic and Radovan Karadzic will soon follow. We appeal to all responsible to cooperate with the ICTY so that those infamous fugitives are eventually brought to justice. Their evasion should not be allowed to outlast the Tribunal.

Finally, we wish to note that the atrocities committed in both Rwanda and the former Yugoslavia are crimes that we as the international community committed ourselves to deter and to bring those responsible to justice. It is in our collective interests to do so, and the cost should not be an immediate concern. Justice should be the overriding concern. We again join the appeal to all Member States to pay their assessed contributions to the ICTR and ICTY so that the two Tribunals can undertake their mandates as required of them. We also appeal for more voluntary contributions to the two Tribunals to enable them to complete their work, thereby ensuring that justice is served.

Mrs. Telalian (Greece): At the outset, we would like to thank Judges Fausto Pocar and Erik Mose, as well Prosecutors Carla Del Ponte and Hassan Jallow, for the oral presentations of their respective reports to the Security Council. We commend them for their tireless efforts to end impunity, re-establish the rule of law and promote national reconciliation and peace in the former Yugoslavia and Rwanda. Both Tribunals have done the maximum possible to keep up with the time frame established in the completion strategies according to resolutions 1503 (2003) and 1534 (2004).

Judge Fausto Pocar, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) — whom we congratulate on his appointment to the presidency of the Tribunal — indicated earlier that, since the last report to the Council, there has been an increase in the number of indictees that have been

apprehended, as a result of which the number of remaining fugitives has been reduced. That is a positive sign of cooperation with the Tribunal by the States of the region. In addition, the transfer of Ante Gotovina to The Hague, following his arrest by Spanish authorities in the Canary Islands, is an important development in establishing accountability for serious violations of international humanitarian law. With regard to the International Criminal Tribunal for Rwanda (ICTR), a more aggressive programme has been formulated by the ICTR Prosecutor's Office to track and arrest fugitives.

However, the continuing failure of the States concerned to apprehend and surrender the remaining fugitives is a serious impediment to the implementation of the completion strategy of the two ad hoc Tribunals. As has been emphasized on many occasions, the Tribunals will not have fulfilled their historic mission unless all fugitives are apprehended and brought to justice. We hope that, at this critical stage of the completion strategy, the States concerned will fully cooperate with the Tribunals in order to assist them in their efforts to deal with past abuses.

A key component of that strategy is the referral of cases concerning intermediate- and lower-rank accused to competent national jurisdictions. So far, the Prosecutor of the ICTY has filed 12 referral motions involving 20 accused. Likewise, the Prosecutor of the ICTR has already commenced the process of requesting the transfer of cases involving persons indicted and files involving individuals to national jurisdictions for trial. We note with satisfaction that both Tribunals have been careful to ensure compliance with international fair trial standards in the aforementioned cases transferred. The obligation on the Prosecutor of the ICTY to provide follow-up reports on the progress made by national courts on those cases is, in our view, an effective safeguard.

Another important measure in that regard is the building of the local capacity of national courts, and particularly the training of local judiciary and prosecutors. We therefore welcome the working visits organized by the Tribunal for the former Yugoslavia with national prosecutors and judges, as well as the various capacity-building initiatives taken within the region.

The successful implementation of the completion strategy of the Tribunals is of paramount importance.

The President of the Tribunal for the former Yugoslavia has given us a clear picture of the ongoing efforts of the two working groups of judges that have been formed to examine how to improve the procedures and practices of the trial and appeals chambers to achieve maximum judicial output. In that respect, the proposal to build a fourth courtroom to increase the court's capacity is a most interesting one. Furthermore, the two resolutions adopted by the Security Council this year concerning ad litem judges is also an important measure facilitating the implementation of the completion strategy.

The President of the Rwanda Tribunal, Judge Mose, has underlined in his report that he estimates that the Tribunal could complete trials and judgments involving 65 to 70 individuals by 2008. In that connection, it has been noted that the completion strategy of that Tribunal is linked to that of the Tribunal for the former Yugoslavia. Indeed, the increasing workload of the Appeals Chamber, which is common to both Tribunals, makes it difficult to estimate when all the appeals will be completed. The suggestion of President Mose that, at some stage, there will be a need to increase the number of judges at the Appeals Chamber is a most interesting one. Likewise, we agree that the Tribunals can achieve their tasks only if the necessary resources are made available.

Over the past years, the two ad hoc Tribunals have played a crucial role in advancing the cause of justice and the rule of law in the former Yugoslavia and in Rwanda. They have now entered the most difficult and critical phase of their existence and they have to implement their completion strategy successfully in order to accomplish their mission. That, however, will depend on a number of factors. Among those factors, we believe that the cooperation of the States concerned, as well as the support of the international community and, most specifically, of the Security Council are the most important.

Mrs. Collet (France) (*spoke in French*): At the outset, I wish to thank the Presidents and Prosecutors of the two ad hoc Tribunals for their extremely detailed and interesting briefings.

I also congratulate Judge Fausto Pocar on his recent election to the presidency of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and ask him to convey our thanks to his predecessor, Judge Meron.

Since our last meeting, we have received some good news: the arrest of Ante Gotovina, one of the four fugitives referred to by name in Council resolutions. That is good news for the European continent, for international justice and for justice as a whole.

That arrest, the fruit of efforts made by the Prosecutor, Croatia and Spain, and the two arrests of recent months in Argentina and Russia naturally heighten our impatience — 10 years after the signing of the Dayton-Paris accords — to see Ratko Mladic and Radovan Karadzic swiftly transferred to the ICTY. As the French Minister for Foreign Affairs recently recalled in Belgrade, cooperation — especially that of Serbia and Montenegro — with the Tribunal will be full and complete only when those two fugitives are in The Hague. That is the only way for a rapprochement with the European Union to be achieved. It is a legal, political and moral necessity.

We also expect full and complete cooperation from all States concerned in the arrest of Félicien Kabuga and others indicted by the International Criminal Tribunal for Rwanda (ICTR), who are still at large 10 years after the genocide.

For us, the completion strategy of the Tribunals, approved by the Council, has two major objectives: to provide timely justice to the victims and to ensure thereby that the spirit of vengeance gives way to reconciliation. We note, and naturally regret, that delays are expected at the ICTY with regard to the second phase of the strategy — the end of the trials — but we hope that they will not hinder compliance with the completion deadline.

We appreciate the considerable efforts of both Tribunals to make the most effective use of their resources while ensuring that the trials enjoy all necessary safeguards. We also hope that the trials transferred to national jurisdictions will be monitored to guarantee the same safeguards, and in that regard we welcome the willingness of the Organization for Security and Cooperation in Europe to monitor those trials on behalf of the ICTY Prosecutor. As to the ICTR, could the Prosecutor tell us if he is considering the establishment of a similar monitoring mechanism for cases transferred to national jurisdictions?

The protection of witnesses must remain an ongoing concern of both jurisdictions. The pressuring of and threats against witnesses are unacceptable. Ms. Del Ponte once again emphasized the seriousness of

that problem in Kosovo. We note her remarks concerning cooperation with the United Nations Interim Administration Mission in Kosovo.

As a member of the Security Council, we are of course resolved to discharge our responsibilities and to continue to seek, alongside the Tribunals, new ways to ensure adherence to the completion strategy. Nevertheless, we feel it important to ensure a certain stability in the functioning of the Tribunals and in their statutes, and to avert repeated interventions by the Council in their organizational affairs.

In conclusion, I reiterate France's belief that the Tribunals' missions will not be accomplished so long as the major suspects at large — in particular Mr. Karadzic, Mr. Mladic and Mr. Kabuga — have not been brought to trial. The fugitives must be transferred to Arusha and The Hague forthwith. Like the States concerned, they must understand that the Council will not back down from its demands.

Mr. El Hadj Ali (Algeria) (*spoke in French*): I should like at the outset to join previous speakers in thanking the Presidents and the Prosecutors of the International Criminal Tribunals for the former Yugoslavia and for Rwanda for their excellent briefings. I would also like, through them, to pay tribute to the work being carried out by those two courts in fulfilment of the missions entrusted to them by the international community.

I would like to take this opportunity to congratulate Judge Fausto Pocar on his election to the presidency of the International Criminal Tribunal for the Former Yugoslavia and to pay tribute to his predecessor, Judge Theodor Meron, for the important work that he carried out.

My delegation reiterates its commitment to the accomplishment of the mission entrusted to the Tribunals by the international community and to the achievement of the objectives of the completion strategies.

We welcome the work tirelessly carried out by the various organs of the International Criminal Tribunal for the Former Yugoslavia, as well as for the efforts carried out, in accordance with regular procedures, to improve pre-trial investigations and to speed up proceedings in the Trials and Appeals Chambers.

We also believe that referring cases involving mid- and lower-level accused to the State jurisdictions of the former Yugoslavia will contribute to reducing pressure on the Tribunal and will shorten the time required to fulfil its mission. The completion of that mission, however, is still a cause for concern, in particular since it is becoming increasingly difficult, as the two recent Security Council reports make clear, to foresee a completion date for the accomplishment of the Tribunal's mandate.

We believe that in this regard the united efforts of the international community, such as those that led to the recent arrest of Ante Gotovina, as well as the full and complete cooperation of the parties concerned with the Tribunal, remain essential if it is to overcome the difficulties that it faces in apprehending and bringing to justice all of those accused who are still at large, in particular Radovan Karadzic and Ratko Mladic.

The updated completion strategy for the International Criminal Tribunal for Rwanda reaffirms that the deadlines set out in resolutions 1503 (2003) and 1534 (2004) can still be achieved, but that they are subject to conditions that are not solely within the control of the Tribunal. Those conditions include the full and complete cooperation of the States concerned in apprehending and trying individuals still at large, as well as the availability of means.

Constraints linked to the competence of the courts of certain countries and to the applicability of their laws to mid- or low-level accused transferred to them for trial may well further slow the pace of the work of the Tribunal as it seeks to complete the trial proceedings by 2008 and to conclude all of its work by 2010, as stipulated in resolution 1503 (2003).

Although the establishment of a fourth courtroom and the lifting of the recruitment freeze are likely to improve the functioning of the Tribunal, it remains clear that the expected increase in the caseload during the appeal phase will put additional pressure on the Tribunal and further delay the conclusion of its work. The fact that not all of the forecast achievements for this year have been realized shows that challenges remain.

We note with satisfaction the recent sentencing of former high-level Rwandan officials, including retired Lieutenant Colonel Aloys Simba, accused of having played a leading role in the massacres in 1994. That is further proof of the importance of the mission

entrusted to the Tribunal of ensuring that those crimes do not go unpunished, despite the difficulties faced.

Finally, we hope to see cooperation between Rwanda and the International Criminal Tribunal for Rwanda with a view to further ensuring a strong foothold for peace and national reconciliation. Given the constraints facing the judicial system of that country and other African countries, we call upon the international community to provide material and financial support and to strengthen their capacity for trying the cases transferred to them.

Ms. Willson (United States of America): The United States remains strongly committed to supporting the United Nations International Criminal Tribunals for the former Yugoslavia and for Rwanda and appreciates the work of their Presidents, Prosecutors and Registrars to bring to justice those most responsible for serious violations of international humanitarian law.

We join others in congratulating Judge Pocar on his election, and we welcome him to the Council. The United States thanks the Presidents and Prosecutors for having addressed the Council this morning.

With regard to the Tribunal for the former Yugoslavia, the United States remains committed to providing significant financial and diplomatic support. We call on all States to fulfil their legal obligations to cooperate fully with the International Criminal Tribunal for the Former Yugoslavia (ICTY). Such cooperation includes not only access to archives and witnesses, but also apprehending all fugitive indictees within their territories and transferring them to The Hague without further delay. In that regard, we welcome the arrest and transfer of Croatian ICTY indictee Ante Gotovina to the Tribunal, and congratulate the Croatian and Spanish authorities for their efforts leading to his arrest.

As Secretary of State Rice stated,

"Croatia has now taken a major step forward towards addressing the injustices of its recent past. With the success of its considerable efforts to locate and bring Gotovina to justice, Croatia significantly strengthens its candidacy for its eventual full Euro-Atlantic integration."

The United States also calls on the Government of Serbia and Montenegro and the Bosnian Serb authorities to fulfil their obligations to the ICTY, in

particular through the apprehension and transfer to the Tribunal of Radovan Karadzic and Ratko Mladic, for whom the Tribunal's doors will always remain open.

The United States and others in the international community have made clear that upholding international obligations to the ICTY is a prerequisite for further integration into the Euro-Atlantic community. As long as Karadzic and Mladic remained at large, Serbia and Montenegro and Bosnia and Herzegovina will not be able to fully engage with Euro-Atlantic institutions.

We are pleased that the leaders of the Bosnian Serb community presented the Secretary with a statement calling for the arrest or surrender of Karadzic and Mladic and pledging that full ICTY compliance would be their top priority. That is a step forward, but it must lead to serious action. We are disappointed that, despite many statements of intent from the Government of Serbia and Montenegro, progress has not been made on the apprehension of Mladic. We call on Serbian Prime Minister Kostunica as head of Government, and on recently appointed Defence Minister Stankovic, to intensify their efforts to apprehend and deliver Karadzic, Mladic and all other fugitive indictees to The Hague. Efforts will be judged by results, not just by words.

With the recent apprehension of Ante Gotovina, the international community must now exercise additional scrutiny of Serbia and Montenegro and the Bosnian Serb authorities to ensure their full cooperation with the Tribunal. We must also all work together to ensure the success of the ICTY's Security-Council-endorsed completion strategy, which seeks to conclude trials by 2008 and all work by 2010.

The international community can help the completion strategy succeed by providing strong support for the Tribunal's efforts to help create the capacity for credible domestic trials of low- and mid-level war crimes cases. We continue to support such efforts and note the significant work being done in Sarajevo, Belgrade and Zagreb in that regard and urge other States to contribute to these domestic war crimes chambers, through either direct financial assistance or in kind contributions.

With regard to the International Criminal Tribunal for Rwanda, the United States commends the increased pace of trials under the leadership of President Erik Mose. We must all continue to work

together to ensure success of the Tribunal's completion strategy, which seeks to conclude trials by 2008 and all work by 2010, as was previously endorsed by the Security Council.

For that to occur, the international community must provide strong support for the ICTR's efforts to help create the capacity for credible domestic trials of low- and mid-level war crimes cases. We urge all States, especially the Democratic Republic of the Congo, the Republic of the Congo and Kenya, to fulfil their international obligations to apprehend and transfer to the ICTR Félicien Kabuga and other persons indicted for war crimes by the Tribunal who are within their territory. Those fugitive indictees continue to foment conflict in the Great Lakes region and must be actively pursued and apprehended, as called for by the Security Council in numerous resolutions, acting under Chapter VII of the Charter of the United Nations, including 1534 (2004) and 1503 (2003).

Mr. Guan Jian (China) (*spoke in Chinese*): At the outset, the Chinese delegation would like to congratulate Judge Pocar on his election to the presidency of the International Criminal Tribunal for the former Yugoslavia (ICTY). We are confident that, under his leadership, the work of the ICTY will be crowned with success. In that connection, the Chinese delegation would like also to thank the former President of the ICTY, Judge Meron, for his contribution to the smooth functioning of the Tribunal.

I listened attentively to the presentations made earlier by Judge Pocar and Prosecutor Del Ponte, and President Mose and Prosecutor Jallow, on the work of the ICTY and the International Criminal Tribunal for Rwanda (ICTR), respectively.

China welcomes the work done by the two Tribunals. We note in particular the fact that the two Tribunals have taken the necessary measures to implement the completion strategy, including measures to expedite the trials and to refer cases involving low- and mid-level accused to the competent national jurisdictions. We noted also the fact that the Tribunals will continue to contemplate new ways of enhancing the effectiveness of their work.

China supports the efforts of the Tribunals to implement the completion strategy. The recent transfer of General Gotovina to the ICTY further convinced us that, through the efforts made by various parties, the

work of the two Tribunals will meet the objectives set, as expected by the international community.

There are three years to go before the deadline for completion by the two Tribunals of their first-instance trials, as envisaged in their completion strategy. Three years is not a short period, and a great deal can be accomplished during that time. We hope that the Tribunals will make full use of the available resources so as to complete their trials smoothly.

The President: I shall now make a statement in my capacity as representative of the United Kingdom.

First of all, we thank the Presidents, Judge Pocar and Judge Mose, and the Prosecutors, Carla Del Ponte and Hassan Jallow, for their reports and presentations this morning. In particular, we congratulate President Pocar on his election as the President of the International Criminal Tribunal for the former Yugoslavia (ICTY), and I am sure that we will continue the excellent cooperation that we have enjoyed with his predecessor, Judge Meron.

Turning first of all to the ICTY and the question of indictees and cooperation, it is, of course, excellent news that Ante Gotovina has now been arrested, and we welcome the participation of the Croatian authorities and the swift action of the Spanish authorities to transfer him to The Hague. As Prosecutor Del Ponte noted this morning, this clearly illustrates that a policy of robust conditionality works and that where the fugitive indictees are located, the full engagement of national authorities in the western Balkans is critical for their arrest.

Full cooperation remains an ongoing obligation for all States in the region, and we call on Serbia and Montenegro and on Bosnia and Herzegovina, in particular Republika Srpska, to follow Croatia's example and to fulfil their responsibilities to the international community, in accordance with resolutions 1503 (2003) and 1534 (2004).

In that respect, the swift arrest and transfer to The Hague of all remaining outstanding fugitive indictees, notably Ratko Mladic and Radovan Karadzic, is absolutely key. It is high time that this take place, as this year is the tenth anniversary of the Srebrenica massacre and the Dayton-Paris Accords.

Turning, secondly, to the progress of trials and the functioning of the Tribunal, we are pleased to see the increasing productivity of the ICTY, including its

caseload, judgements rendered and cases transferred to Croatia and Bosnia and Herzegovina. We welcome the numerous capacity-building initiatives that ICTY personnel have put in place to strengthen the local judiciaries of the former Yugoslav countries.

We are grateful for the extensive efforts made by all court organs to implement significant new practical and legal measures to expedite proceedings. It is important that the court achieve its mandate within the time-frame and budget agreed. However, we have real concerns regarding slippage in the 2008 deadline for completion of trials and the risk of backlog on appeals developing.

Turning, secondly, to the ICTR, we welcome the news, confirmed this morning by Prosecutor Jallow, that the court is still on course to complete all trials by the end of 2008. The continued increase in throughput of trials is encouraging. It underlines to the international community that the ICTR is making good progress. That the Tribunal is operating at full trial capacity is testament to the hard work and dedication of its staff.

It is encouraging that the completion strategy is at the heart of the Tribunal's overall management. Prudent steps, such as the use of redeployment to cover projected staff increases in growth areas, will give confidence to the donors.

Turning next to residuary issues, we note that the workload of the Appeals Chamber is set to increase dramatically in the near future. That will have a significant impact on the Tribunal's closing date, and we encourage the secretariats of ICTY and ICTR to take steps now in order to plan for this and the other residuary issues that will be faced by the Tribunals. We are pleased that the Registrars and the United Nations Office of Legal Affairs are taking the initiative in this regard now.

Turning, finally, to cooperation by Member States with respect to at-large indictees, Member States must continue to support the ICTR in practical as well as financial terms. In particular, States must meet their obligations in arresting indictees at large, including Félicien Kabuga, and transferring them to the court's jurisdiction.

Finally, we recognize the efforts made to transfer cases from the Tribunal to domestic jurisdictions and steps taken in the area of national capacity-building.

Capacity-building is vital to ensure that the necessary standards of fair trial, independence and full respect for human rights are complied with in national trials.

I now resume my functions as President of the Council.

I call first on those States invited under rule 37 to take a seat at the Council table.

Mr. Kamanzi (Rwanda): Mr. President, we wish to thank you for convening this meeting to discuss the completion strategies of the International Criminal Tribunals for Rwanda and the Former Yugoslavia.

My delegation wishes to express its thanks to Tribunal Presidents Judge Erik Mose and Judge Fausto Pocar and Chief Prosecutors Hassan Jallow and Carla Del Ponte for their respective presentations. We commend them for their continued hard work and commitment to the successful implementation of their completion strategies in accordance with Security Council resolutions 1503 (2003) and 1534 (2004).

We wish to focus our remarks on the International Criminal Tribunal for Rwanda (ICTR). My Government wishes to express its satisfaction with our good working relationship with the Tribunal and to reiterate once again our commitment to continuing to work with the Tribunal in a constructive and collaborative spirit to bring to justice those who bear the greatest responsibility for the 1994 genocide in Rwanda.

As 2005 draws to a close, we recognize that there is not very much time before the Tribunal is supposed to complete its work in accordance with the completion strategy. We welcome the efforts of the Tribunal to be focused and systematic in its approach as it works towards ensuring the successful completion of its mandate.

On the basis of the information contained in the updated and revised version of the completion strategy, the Tribunal expects to have completed trials involving 65 to 70 persons by 2008. While we welcome this assessment, we also recall that a few years ago the Office of the Prosecutor had targeted for trial as many as 300 suspects who bear the greatest responsibility for the genocide. This figure has been revised downward over the years, until today we are at a point where we are talking about roughly one quarter of the number of original targets.

While the number of persons targeted for prosecution has gone down, serious accusations remain against many of the suspects who are no longer being considered for prosecution. One such suspect is Callixte Mbarushimana, who should face justice instead of being considered for compensation for income lost from United Nations employment.

Among those indicted by the Prosecutor, 19 remain at large and are being provided with a haven from international justice by Member States of the United Nations. We once again appeal to the Prosecutor to enforce the relevant provisions of the Tribunal's Statute to ensure that all States cooperate and hand over these fugitives. The Prosecutor should, for example, consider providing the Security Council with a list of indictees still at large, along with the countries in which they currently reside.

The concern of the Government and people of Rwanda, particularly the genocide survivors, is that the perpetrators of the genocide not be allowed to evade justice. The Tribunal's completion strategy should not be seen as an exit strategy from the obligations of the international community to bring all the suspects of the crime of genocide to trial at the ICTR or in Rwanda. The serious nature of the crime of genocide requires that we ensure that there is no impunity; we therefore cannot accept the notion that some accused may never be arrested. Measures must be put in place to ensure that all accused are brought to justice, even after the Tribunal's mandate has expired.

We welcome the more aggressive programme from the prosecution for tracking and apprehending fugitives. We also appreciate the commitment by some Member States to cooperate with the Tribunal in apprehending and transferring suspects for prosecution. We urge Member States to intensify these efforts. This is the only way to ensure that notorious suspects such as Félicien Kabuga, Augustine Ndirabatswe and François Bucyibaruta are arrested and brought to justice.

With the Tribunal only a couple of years away from the completion of its work, we believe that the Security Council should reflect on the legacy issues of the ICTR, particularly in Rwanda.

To its credit, the Tribunal has brought to justice many leading suspects of the genocide. It has also set many legal precedents and contributed immensely to the body of international law.

However, much work remains to be done with respect to its impact on the justice and reconciliation process in Rwanda. This may be due to the geographical distance between Arusha and Rwanda, coupled with the failure to establish an effective and proactive outreach programme. It may also be due to the witness protection problems and to the management and ethical challenges that have plagued the Tribunal, particularly in its earlier years.

The legacy of the Tribunal with respect to strengthening the Rwandan judiciary also requires attention. We welcome the support given thus far to strengthen our judiciary, although we would highly appreciate more, especially in training investigators, lawyers and judges, as well as upgrading the existing infrastructure, including through enhancing information and communications technology capabilities. This would support our own efforts, which have already resulted in a significant strengthening of the judiciary.

Since the establishment of the Tribunal in 1994, my Government has strongly advocated for the transfer of some cases for trial in Rwanda. It is a widely accepted principle that trials should always take place as close as possible to where the crimes were committed. The crimes before the ICTR were committed in Rwanda. It is my Government's view that all trials targeted for transfer should take place in Rwanda. This would help address the legacy problem I mentioned earlier, because people would be able to relate to a legal process that is taking place close to them. It would also help eradicate the culture of impunity, as justice would not only be done, but would be seen to be done by Rwandans in Rwanda. Those two factors would also contribute to the promotion of national reconciliation and healing.

The Rwandan Government therefore welcomes the transfer of 45 investigation files from the ICTR to Rwanda. We would encourage the Tribunal to continue to identify cases for transfer.

Two issues have been raised with respect to Rwanda's capacity to handle such cases. First, we have on several occasions informed the ICTR that since 1998 a moratorium has been in force on the death penalty, and that in any case the Government is willing to enter into an agreement with the Tribunal not to exercise the death penalty in any of the transferred cases.

Secondly, on the question of the capacity of the Rwandan judicial system to handle such cases, given the large caseload from thousands of local cases, we wish to bring the following to the attention of the Council.

First, the strain of cases on the ordinary courts was eased with the commencement of Gacaca community trials earlier this year. The vast majority of cases are expected to be tried by the Gacaca community court and appeals process. This has freed up the ordinary courts, which will now be able to handle the cases transferred by the Tribunal and a handful of cases that may be referred back to it by the Gacaca courts.

Secondly, since 1994 the Rwanda Government has been engaged in an intensive programme to build a strong and respected judiciary. We have trained three times as many lawyers and investigators in the past 10 years as in the three decades preceding the genocide. With the assistance of a number of friendly Governments, we have transformed the infrastructure, particularly courtrooms, and have provided judges and prosecutors with the facilitation that has made them more effective.

For those reasons, therefore, the Rwanda Government believes that it has the capacity to handle all the cases transferred from the ICTR, and we hope that the Office of the Prosecutor will, at the appropriate time, make the decision to transfer all those cases to Rwanda.

We do not suggest that our judiciary is perfect. Challenges remain, but we are determined to continue to make progress and further strengthen our judiciary. Naturally, we would welcome continued international assistance to enable us further to enhance our improved capacity, in the same way that the former Yugoslavia was supported in preparation for the transfer of cases to national jurisdictions. I wish to take this opportunity to thank Judge Møse for the appeal made to the international community along those lines.

It is also important that sentences be served inside Rwanda. This is another point that the Rwanda Government has advocated since 1994. Here again, both common sense and natural justice would suggest that sentences should be served where the crimes were committed. This would advance the cause of justice, combat impunity and promote national reconciliation. In that context, we wish to recall that a new detention

facility that meets United Nations standards was completed more than a year and a half ago.

The security of witnesses who testify before the Tribunal continues to be an issue of concern to my Government. We commend the Prosecutor's decision to assign a special counsel to investigate such matters and welcome the directives given by the Appeals Chamber on this issue in the case of Jean de Dieu Kamuhanda. We urge other Chambers to deal with the issue with seriousness and follow this procedure in all cases where threats to witness security have been reported. We therefore invite the Tribunal to develop with us a joint mechanism for ensuring witness security, including by signing a memorandum of understanding on cooperation with the Government of Rwanda on all aspects of witness protection.

Finally, we would like to express our appreciation to the international community for its continued support of the Tribunal through both assessed and voluntary contributions. In particular, we would like to thank the Governments of Norway and the United Kingdom, which paid for the construction of a new courtroom at Arusha. This new courtroom will enable more cases to be heard at the same time, thereby supporting the implementation of the completion strategy. We also greatly appreciate the assistance from the international community that enabled us to construct new courtrooms and a detention facility in Rwanda, which will be used exclusively for the cases transferred to Rwanda from the Tribunal.

We would also like to take this opportunity to urge Member States to make their financial contributions to the Tribunal on time, in full and without conditions. Late payment or non-payment of contributions has a negative impact on the completion strategy.

The President: I now give the floor to the representative of Bosnia and Herzegovina.

Mr. Prica (Bosnia and Herzegovina): Allow me at the outset to congratulate you, Sir, on your successful presidency of the Council for the month of December 2005. I wish also to express my sincere gratitude to Judge Fausto Pocar, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and to take this opportunity to congratulate him on his appointment to his important position. I also express my sincere gratitude to Judge Erik Møse, President of the International

Criminal Tribunal for Rwanda (ICTR), to Ms. Carla Del Ponte, Chief Prosecutor of the ICTY, and to Mr. Hassan Jallow, Prosecutor of ICTR.

It is of paramount importance that all indictees be brought to justice in order for the ICTY to successfully complete its work. Only then would genuine reconciliation of the Western Balkans be possible, thus opening the road to lasting stability and prosperity of the whole region within the European mainstream.

Today, we are here also to assess the progress of Bosnia and Herzegovina in cooperation with the ICTY. Since the Chief Prosecutor's last report, the Bosnia and Herzegovina authorities have undertaken positive steps towards improving cooperation with the ICTY. In the meantime, the number of extraditions of persons accused of war crimes and crimes against humanity has significantly increased. Cooperation by the entities with the ICTY has significantly improved, in particular by the authorities of the Republika Srpska. Access to all requested documentation has been provided, and the War Crimes Chamber has started its work.

Bosnia and Herzegovina reiterates its strong commitment to the principle that all those indicted for war crimes perpetrated on its territory, as well as on the rest of the territory of the former Yugoslavia, have to be brought to justice. Since the beginning of its work in 1993, the Tribunal has charged 161 persons for war crimes committed in the former Yugoslavia. To date, proceedings against 88 persons have been completed. Six indicted persons, all of them at large, are still to be tried before the court closes. I would like to remind the Council that there has been a dramatic increase in the number of indicted persons transferred to the Tribunal — indeed, 24 since the end of last year.

The War Crimes Chamber of the State Court of Bosnia and Herzegovina and the Special Department of the Bosnia and Herzegovina Prosecutor's Office were opened on 9 March 2005. They are now in a position to accept cases that the Tribunal's Referral Bench decides to give to the authorities of Bosnia and Herzegovina for further processing. This confirms that Bosnia and Herzegovina has already met its international obligations and has become a full partner with the ICTY. This is the result of coordinated efforts of the Council of Ministers and other relevant institutions of Bosnia and Herzegovina, the Office of the High Representative for Bosnia and Herzegovina, the Tribunal and the international community. It also

confirms the ability of the War Crimes Chamber to perform its tasks, in spite of difficulties that range from a shortage of funds, to a shortage of jail space, to the problem of dual citizenship of indictees, which has already been brought to the court's attention.

We are sure that the War Crimes Chamber will shortly earn the complete respect of all. We are sure that the proceedings will be conducted with diligence and fairness, and that the best European practices, as well as the technical facilities of the Chamber, will ensure that its work is carried out with maximum effectiveness.

The War Crimes Chamber tries two categories of cases. The first category, in accordance with rule 11 bis of the Rules of Procedure and Evidence of the ICTY, includes confirmed accusations, and the second category comprises cases in various stages of investigation. In addition, the War Crimes Chamber will prosecute domestic cases of war crimes.

At the end of September 2005, under rule 11 bis, the ICTY transferred the first case to the Bosnia and Herzegovina State Court's War Crimes Chamber. This is the first time that the ICTY has given over a case to the jurisdiction of a domestic court in one of the countries of the former Yugoslavia. It was a result of the assessment of the ICTY that the Bosnia and Herzegovina Court could meet the highest international standards of justice in such difficult and sensitive criminal cases.

Bosnia and Herzegovina welcomes the apprehension of General Ante Gotovina in Spain and his transfer to The Hague. After nearly four years of searching, the Republic of Croatia has shown the difference between procrastination and determination. We awaited that development with anticipation, and we are particularly pleased that the road to Croatia's full European Union membership is now wide open.

As you are aware, Mr. President, this year we celebrate the tenth anniversary of the Dayton Peace Agreement. The Presidents of our two neighbouring States participated actively in those negotiations and signed the Agreement as guarantors. Even though our relations with them have improved dramatically, our recent history makes us feel uncomfortable, that we are between a rock and a hard place. We will certainly feel much more comfortable once we enter the Partnership for Peace, and we will definitively be at ease once we become full members of NATO. The only remaining

condition to fulfil that goal of vital importance is the apprehension of Radovan Karadžić and Ratko Mladić, the two most notorious and highest-ranked indictees. It is only fair to say that Bosnia and Herzegovina does not hold the key for the fulfilment of that condition.

Allow me to conclude by quoting the words of Secretary-General Kofi Annan on the occasion of his visit to the ICTY on 3 March 1997: "Impunity cannot be tolerated, and will not be. In an interdependent world, the rule of law must prevail."

The President: I now give the floor to the representative of Croatia.

Mrs. Mladineo (Croatia): Allow me, Mr. President, to thank Judge Fausto Pocar, President of the International Criminal Tribunal for the former Yugoslavia (ICTY), and Chief Prosecutor Carla del Ponte for their assessments pursuant to Security Council resolution 1534 (2004), of the work of the Tribunal. I also take this opportunity to congratulate Judge Pocar on his recent assumption of that important post.

In so far as Croatia is concerned, the written report of the ICTY (S/2005/781, annex I) before the Council has been superseded by subsequent events. As is well known, Croatia has worked with the Tribunal in implementing its action plan for the resolution of the sole outstanding matter, namely, the case of Ante Gotovina. The Tribunal has continuously been kept updated on all activities related to the implementation of the action plan. The Chief Prosecutor of the Tribunal confirmed the credibility of the Croatian Government in her report to the European Union task force dated 3 October 2005.

The rule of law is a fundamental tenet of modern governance. Croatia has demonstrated that it will not accept exceptions to the rule of law. Impunity does not serve justice. Every indictee must face his indictment and appear before the Tribunal to answer the charges brought against him. At the same time, those coming before the ICTY do so with the presumption of innocence. Respect for the rule of law must be mirrored by justice being done in accordance with the principle of due process.

Croatia has a vested interest in having the truth established and a strong interest in the Tribunal's successful implementation of its mandate. The homeland war was a defensive, just and legitimate war.

Croatia was the victim of aggression and had the right to self-defence and the liberation of its occupied territories pursuant to Article 51 of the United Nations Charter. The individualization of guilt, where it is found to exist, can only serve to strengthen the legitimacy of the homeland war.

Croatia has worked closely with the Tribunal. It has responded in due time and comprehensively to the Tribunal's requests for documents and witnesses. Cooperation between legal and judicial institutions in Croatia and the Tribunal has been good. In order to foster cross-border cooperation in war-crime trials, earlier this year Croatia signed an agreement with Bosnia and Herzegovina and with Serbia and Montenegro on cooperation in war-crimes proceedings and in combating organized crime.

The Security Council has been discussing the Tribunal's completion strategy since August 2003. Part of that strategy is the work that it is undertaking with the national courts of the countries concerned. Work has been done to increase the capacity of judges and lawyers in Croatia in preparation for the transfer of cases for prosecution under national jurisdiction. One such case, involving two accused, has recently been referred to the Croatian jurisdiction. Those efforts will further strengthen the capacity of our legal system.

We note that the Tribunal's completion strategy involves a three-step process encompassing the completion of investigations, trials and appeals according to the time lines established by the Security Council in resolution 1503 (2003). The first of the benchmarks, namely, the completion of investigations, was met at the end of 2004. We trust that the recent events have brought the conclusion of the Tribunal's work more closely into view.

The President: I now give the floor to the Ambassador of Serbia and Montenegro.

Mr. Kaludjerović (Serbia and Montenegro): Let me, first of all, thank the President of the International Criminal Tribunal for the former Yugoslavia, Judge Fausto Pocar, for his report and congratulate him on his appointment as President of the Tribunal. I wish him every success in his future work and hope that the Tribunal's completion strategy will be brought to a close during his mandate, to which we will make our full contribution. Let me also express our gratitude to Prosecutor Carla Del Ponte for her briefing, as well as for her engagement and tireless efforts in bringing

those responsible for war crimes to justice. We in Serbia and Montenegro appreciate those efforts very much, despite the occasional strong assessments critical of my country, as demonstrated in her briefing today. I would also like to thank the President of the International Criminal Tribunal for Rwanda, Judge Mose, and that Tribunal's Prosecutor, Mr. Hassan Bubacar Jallow, for their comprehensive briefings.

The State Union of Serbia and Montenegro and its member States would like to express their firm commitment to the successful and full completion of cooperation with the ICTY, in particular the Prosecutor's Office. The Council is aware of the readiness and the full political will of the highest authorities of Serbia and Montenegro to do all in their power so that the remaining indictees can be transferred to the custody of The Hague Tribunal. As is known, the main obstacle is that those persons are not within the reach of our law enforcement authorities. At the same time, we would like to emphasize that it is of utmost importance to expand and step up international cooperation in those cases, since it has turned out that some indictees, such as Lukić and Zelenović, were located in States far away from Serbia and Montenegro. For our part, we shall undertake additional measures and activities to bring our cooperation with The Hague Tribunal to a fully successful result.

On this occasion, I would particularly like to point out that we are absolutely resolved to fully cooperate with the ICTY in terms of granting access to documents and archives. A decision has been made to take this question off the agenda finally by enabling full access to documents and archives. Serbia and Montenegro has no interest in hiding anything of the recent tragic history surrounding the bloody break-up of the former Yugoslavia and the ensuing civil wars. Admittedly, our peoples suffered enormously in those wars, and it is essentially in our national interest to bring those responsible to justice by establishing individual responsibility and thus contribute to reconciliation among peoples that used to live together, side by side, despite their differences, and setting an example for others. Consequently, officials from the Prosecutor's Office will be given access to the requested documents needed for the ongoing proceedings. For our part, we shall create the necessary technical conditions for archival access.

The Council is aware of the fact that the Tribunal's Trial Chambers, in line with the Tribunal's Rules of Procedure, honoured some of our requests for them to observe protection measures concerning certain documents containing information of vital national interest. This is a generally recognized practice under the international law, and we shall, in good faith, limit it to exceptional cases in order not to impede the establishment of individual responsibility for war crimes.

The State Union is fully committed to the area of cooperation with the ICTY and the Office of the Prosecutor, which should build our national capacity to take over the criminal prosecution of and proceedings against persons who, under Security Council resolutions 1503 (2003) and 1534 (2004), do not fall into the category of highest-ranking officials. In order to contribute to the Tribunal's completion strategy, the State Union and its member States stand ready to enable their domestic courts to take over cases from the Tribunal and from the Office of the Prosecutor.

In that regard, several days ago, on 12 December 2005, the Belgrade District Court's special department for war crimes completed court proceedings for the war crimes committed in 1991 at the Ovčara farm, near the town of Vukovar. Eight persons were sentenced to maximum 20-year prison terms, while six persons were handed lesser prison terms ranging from five to 15 years. Collectively, they were sentenced to 231 years in prison. Three additional proceedings in the same court are currently under way or should start soon. The judicial proceedings for the Zvornik case against six indictees opened recently, while the case against the members of the notorious Scorpions group is set to begin on 20 December 2005. The special department of the Belgrade District Prosecutor's Office for the prosecution of war criminals has undertaken investigations and investigation procedures against some 40 persons suspected of war crimes.

In the field of normative improvements to legislation aimed at ensuring successful trials involving transferred cases, I would like to inform the Council that a new criminal code has been adopted by the National Assembly of Serbia. It is of particular significance that the law fully regulates objective and command responsibility, making it possible for persons indicted for war crimes to be properly tried in domestic courts. Although that has been possible in the past through the implementation of international

conventions — which, under our laws, take precedence over domestic legislation — the introduction of the concept of command responsibility into the domestic legal system would serve as an additional factor in favour of transferring cases from the ICTY to domestic jurisdiction. We steadfastly believe that, in order to ensure the administration of international justice and the achievement of reconciliation among the peoples and States in the territory of the former Yugoslavia, it is best that our nationals be tried by domestic courts.

The Republic of Serbia has amended its legislation to provide for witness protection by adopting a special law. The ability of witnesses to give testimony without fearing for their safety or for that of their families is particularly important in trials of persons accused of war crimes. Once their status has been determined by a body composed of representatives of the police, the prosecutor's office and the court, they are protected by a special police unit designed to provide effective protection in complex cases such as those involving war crimes. The 2006 budget of the Republic of Serbia has allocated resources for protection programmes and for a special police unit.

Although we have already completed the larger part of our cooperation with the ICTY, the authorities of Serbia and Montenegro are fully aware that a small but extremely important part of that cooperation must still be completed. In that respect, we will do our utmost to ensure that the deadlines envisaged in the Tribunal's completion strategy are met. I would like to stress once again that it is, above all, in our national interest to honour our international obligations. That is why we will do everything in our power to ensure that our cooperation with the ICTY is fully and efficiently completed.

The President: Time is moving on, but we need to give an opportunity to our two Tribunal Presidents and our two Prosecutors to respond, if they wish, to comments and questions raised.

I give the floor to Judge Mose.

Judge Mose: At this stage, I have virtually nothing to add. Let me simply thank all members of the Security Council for their interesting comments and suggestions, which will serve to encourage and inspire all of us in Arusha in our work. We note the interest expressed by some delegations with regard to the need to look into how the Appeals Chamber will have to be

structured in the future. I agree with those who said that that must take place in close cooperation among the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and the United Nations Secretariat. We are approaching the point where we will have to think in that direction.

As for the transfer of cases, it is good to hear that there is full support for the principle of transferring those involving lower- and middle-rank indictees. In particular, we were very pleased to note the virtually unanimous opinion of Security Council members that everyone needs to apprehend the fugitives at large. We hope that there will be pressure in that direction.

All the comments offered today will be taken home to Arusha and shared with our colleagues there.

The President: I now give the floor to Judge Pocar to make any comments that he might have.

Judge Pocar: Thank you, Mr. President, for giving me the floor despite the lateness of the hour. I would just like to say a few words. First, I wish to express my deep gratitude to you and to the other members of the Council for the kind words addressed to me as the new President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and for their statements of appreciation for the activities of my predecessor, which I shall convey to Judge Meron.

I am also most grateful to Council members for the attention they have given to my report today, for the support they have shown for our work and for their valuable and interesting comments. I assure them that their views and suggestions, as well as the concerns that they have expressed in relation to the completion strategy, will be taken into account by the judges in their future activities.

I wish to stress in particular that I noted the encouragement to continue to improve our efforts to strengthen the capacity of the local judiciary. We will certainly do so, because I am convinced that that is not only essential if we are to comply with the completion strategy, but also essential in carrying out the reconciliation process through justice in the region. When the Tribunal is closed, it is essential that the local judiciary have full capacity to apply the rule of law in the countries concerned.

I thank Council members once again for their attention.

The President: Does Prosecutor Del Ponte wish to make any comments? As she does not, I give the floor to Prosecutor Jallow.

Mr. Jallow: I am taking the floor only to respond to the question raised by the Permanent Representative of France, who wished to know the number of files that have been earmarked for transfer to national jurisdictions.

Currently, the number stands at 45, as I indicated. Of those 45, we have already handed over 30 to the Government of Rwanda; those relate to people who have not yet been indicted. The remaining 15 include five who are currently in custody in Arusha and eight who are at large; they have been indicted but have not yet been arrested. That is the situation. It is very probable that the number of those who have been indicted and are at large will increase; therefore, that category of cases for transfer may increase. That is the scenario at the moment.

I would like to join the Presidents of the Tribunals in thanking the President and the other members of the Council for their support. It is a source of great encouragement to us in our work.

The President: I think we have had a very useful debate. On behalf of the Council I would like to thank again Presidents Pocar and Mose and Prosecutors Del Ponte and Jallow. I think it is fair to say that the members of the Council have encouraged both Tribunals to consider pursuing their completion strategies vigorously. I think they heard that in no uncertain terms today.

It is clear, to all Council members that the transfer of Ante Gotovina to the International Criminal Tribunal for the Former Yugoslavia (ICTY) is a very significant step. There is a continuing need for full cooperation by States in the region to ensure the transfer of the remaining indictees, including Karadzic and Mladic to the ICTY and Kabuga to the International Criminal Tribunal for Rwanda (ICTR).

The transfer of cases from the Tribunals to the national jurisdictions was a point mentioned by many speakers and is an essential element in the completion strategies. But of course it needs to take place in the context of capacity-building with those jurisdictions,

and with full respect for the human rights of the indictees.

President Pocar mentioned the issue of the consolidation of cases before the ICTY and the need to ensure fair procedures. I believe that is an issue that could be taken up by the Security Council's working group on tribunals. If he is able to return to New York, perhaps in January the current presidency of the Security Council would be happy to explore with the incoming presidency, Tanzania, whether they might consider holding such a meeting under their presidency.

May I again thank our four visitors, Judge Pocar, Judge Mose, Prosecutor Del Ponte and Prosecutor Jallow, for taking the time to brief the Security Council.

There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 1.55 p.m.



Security Council

Sixtieth year

Provisional

5329th meeting

Thursday, 15 December 2005, 5.25 p.m.
New York

<i>President:</i>	Sir Emyr Jones Parry	(United Kingdom of Great Britain and Northern Ireland)
<i>Members:</i>	Algeria	Mr. Baali
	Argentina	Mr. Mayoral
	Benin	Mr. Idohou
	Brazil	Mr. Tarrisse da Fontoura
	China	Mr. Zhang Yishan
	Denmark	Ms. Løj
	France	Mr. De La Sablière
	Greece	Mrs. Papadopoulou
	Japan	Mr. Oshima
	Philippines	Mr. Lacanilao
	Romania	Mr. Motoc
	Russian Federation	Mr. Denisov
	United Republic of Tanzania	Mr. Manongi
	United States of America	Mr. Bolton

Agenda

The situation in the Middle East

Letter dated 12 December 2005 from the Secretary-General addressed to the President of the Security Council (S/2005/775)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.



The meeting was called to order at 5.25 p.m.

Adoption of the agenda

The agenda was adopted.

The situation in the Middle East

Letter dated 12 December 2005 from the Secretary-General addressed to the President of the Security Council (S/2005/775)

The President: I should like to inform the Council that I have received letters from the representatives of Lebanon and the Syrian Arab Republic in which they request to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Assaf (Lebanon) and Mr. Mekdad (Syrian Arab Republic) took seats at the Council table.

The President: The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them photocopies of a letter dated 12 December 2005 from the Secretary-General addressed to the President of the Security Council transmitting the report of the United Nations International Independent Investigation Commission prepared pursuant to resolutions 1595 (2005) and 1636 (2005). The letter and its enclosure will be issued as a document of the Security Council under the symbol S/2005/775.

I should like to draw the attention of members to documents S/2005/762 and S/2005/783, which contain letters dated 5 December and 13 December 2005, respectively, from the chargé d'affaires ad interim of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General.

Members of the Council have before them document S/2005/788, which contains the text of a draft resolution submitted by France, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

I welcome the presence at this meeting of the Secretary-General, His Excellency Mr. Kofi Annan.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. Unless I hear any objection, I shall put the draft resolution to the vote now.

There being no objection, it is so decided.

A vote was taken by show of hands.

In favour:

Algeria, Argentina, Benin, Brazil, China, Denmark, France, Greece, Japan, Philippines, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America

The President: There were 15 votes in favour. The draft resolution has been adopted unanimously as resolution 1644 (2005).

I shall now give the floor to those representatives who wish to make statements after the voting.

Mr. Baali (Algeria) (*spoke in French*): Algeria has vigorously condemned the assassination of Mr. Rafik Hariri ever since the commission of that abominable crime and has insisted that light be shed on the matter and that the perpetrators, whoever they are and wherever they might be, be brought to justice.

Those concerns prompted us to play an active role in the negotiations that led to the Security Council's unanimous adoption of resolution 1595 (2005), which established the international Commission responsible for helping the Lebanese to establish the facts. We helped to ensure that the Commission had the full support of the Security Council and that it would be able to carry out its mission with full independence. Similarly, during negotiations on resolution 1636 (2005), we strove to provide the Commission with the means and resources to enable it fulfil its mandate and to ensure the full cooperation of all the parties concerned.

The Council has just considered the second progress report. The report's conclusions are not final,

and need to be corroborated. We are convinced that, in order to safeguard the credibility of the report and the work of the Commission, consideration of the report must be free from any influence that could harm one party or another. In this regard, we welcome the agreement reached concerning the location and conditions for hearing the Syrian witnesses, as well as the cooperation shown by Syria — and borne out in actions — and we urge it to continue in the same direction and, in particular, to comply with resolution 1636 (2005). The letters recently addressed by Syria to the Security Council confirm that willingness to cooperate.

We also note with satisfaction the readiness of the Council to give positive consideration to the request for the expansion of the mandate of the Commission investigating the assassination of Mr. Hariri to consider the other attacks that have taken place since 1 October 2004. We have fully supported that request, first of all because it came directly from the Lebanese Government, but also because there could be links between the various attacks that have taken place in Lebanon. Although not completely satisfactory, the wording agreed upon by the Security Council relating to that request and to the establishment of a tribunal of an international character constitutes a clear commitment on the part of the international community to Lebanon, and we can therefore welcome it.

Finally, we have sought and obtained assurances that the Security Council will refrain from any premature or inappropriate action, given the stage that the investigation has reached and the common objectives that we are pursuing. That is why, while pointing out that the language in the resolution just adopted concerning the degree of cooperation by Syria with the Investigation Commission does not do justice to the goodwill that has been shown by that country, we nevertheless chose to preserve the unity of the Council and voted in favour of the text that was submitted.

Mr. Zhang Yishan (China) (*spoke in Chinese*): We have taken note of the report submitted to the Security Council by Mr. Mehlis, head of the International Independent Investigation Commission. The Commission is making fresh headway in its investigation, but it has not yet finished its work. Much remains to be done. We have also taken note of the recent request by Lebanon, and we express our full understanding in that respect.

The main purpose of resolution 1644 (2005), which the Council has just adopted, is to extend the mandate of the International Independent Investigation Commission so that it can continue to assist the Lebanese Government in establishing the facts regarding the assassination of Mr. Hariri. For those reasons, China voted in favour of resolution 1644 (2005). We hope that, given the efforts and cooperation of all the parties concerned, the Commission will soon uncover the truth of the matter.

Mr. Denisov (Russian Federation) (*spoke in Russian*): Right up until the time of today's vote, the members of the Council continued to work on the draft resolution containing the response of the Security Council to the latest report of the Mehlis Commission. We had very much hoped that Council members would be able to overcome their differences of opinion and reach a consensus on that document. Despite the continuing divergences of view, we were able to come to an agreement, and the resolution was adopted unanimously.

We proposed our own amendments to the texts prepared by our French and American colleagues, which made it more balanced in nature, without, however, fully freeing it of negativism with respect to Syria — unnecessary in the current situation. We continue to oppose unwarranted pressure on Damascus, as well as interpretations with respect to the degree and nature of Syrian cooperation with international investigators that are not in keeping with the conclusions of the Mehlis Commission.

We have noted that Damascus began cooperating with the Mehlis Commission on the basis of the provisions of resolution 1636 (2005). So far, the Syrian side has taken only initial steps in that respect; it still has considerable distance to cover.

The Security Council must monitor the manner in which the Syrian side meets its obligations and, where necessary, assist it.

We would also reiterate Russia's firm conviction of the need to continue efforts to establish the facts with respect to the circumstances surrounding the death of the former Prime Minister of Lebanon, Rafik Hariri.

The President: I give the floor to the representative of Lebanon.

Mr. Assaf (Lebanon) (*spoke in Arabic*): I would like to begin by thanking the Security Council for

having adopted resolution 1644 (2005) unanimously. The adoption by the Council of this resolution is proof of the Council's commitment to helping Lebanon in the very difficult circumstances in which our country finds itself. This is in accordance with the Council's responsibility for the maintenance of international peace and security, in particular in the light of the terrorist bombings that took place in Lebanon between 1 October 2004 — the date of the attempted assassination of Minister Marwan Hamadeh — and the time of the assassination of Prime Minister Rafik Hariri, as well as other attacks, including the terrorist bombing the day before yesterday that claimed the life of Gibran Tueni, who was a Member of Parliament.

We thank the Security Council for its commitment and assure it that the Lebanese people will continue to steadfastly face all of the challenges and dangers inherent in preserving the unity, stability and independence of Lebanon. We will not turn back on this path.

The President: I give the floor to the representative of the Syrian Arab Republic.

Mr. Mekdad (Syrian Arab Republic) (*spoke in Arabic*): I should like to express my appreciation for this opportunity to make a few brief comments on the resolution just adopted by the Security Council.

I should like at the outset to express my country's appreciation for the efforts made by many States members of the Council to prevent the adoption of a resolution contravening international law, the principles of the Charter and the role of the Security Council in the maintenance of international peace and security.

I would like to reiterate that, despite the full cooperation shown by Syria within the framework of its sovereignty and the rights of its citizens, in accordance with international law and humanitarian law, certain States, because of their narrow interests, insisted on saying that we have not positively cooperated with the International Independent

Investigation Commission or with respect to the implementation of the relevant resolutions in a record short time, even though many of the resolutions on the Middle East that have been adopted over the past 38 years have yet to be implemented.

It is regrettable that, although we have clearly stated that contacts between Syria and the Commission were under way and that efforts were being made by both sides to reach mutual agreement on issues relating to the questioning of Syrian citizens, some have chosen to overlook everything we have stated, have reached selective conclusions based on the Commission's report, and have used them in a distorted way against my country.

Syria has discharged its responsibilities in a spirit of sincerity, certain as it was that a professional and objective investigation would lead to Syria's being cleared. We have not cooperated with the Commission just to please certain parties, but because we wanted to cooperate.

During the preceding period, we informed the Council, via letters to all of its members, about all of our actions and efforts. Regrettably, some Council members did not even want to take note of these letters.

To bring pressure to bear and to attempt to impose one's will on others runs counter to the principles governing relations among States, which must be based on mutual respect, constructive dialogue and openness to others.

Lastly, let me reiterate Syria's firm commitment fully to cooperate with the Commission during the coming period.

The President: The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The Security Council will remain seized of the matter.

The meeting rose at 5.50 p.m.





Security Council

Distr.: General
16 December 2005

Original: English

Official communiqué of the 5330th (closed) meeting of the Security Council

**Held in private at Headquarters, New York, on Friday,
16 December 2005, at 10 a.m.**

In accordance with rule 55 of the provisional rules of procedure of the Security Council, the following communiqué was issued through the Secretary-General in place of a verbatim record:

"On 16 December 2005, the Security Council, pursuant to annex II, sections A and B of resolution 1353 (2001), held its 5330th meeting in private with the troop-contributing countries to the United Nations Disengagement Observer Force (UNDOF).

"The Security Council and the troop-contributing countries heard a briefing under rule 39 of its provisional rules of procedure by Mr. Hédi Annabi, Assistant Secretary-General for Peacekeeping Operations.

"Members of the Council, Mr. Annabi and representatives of participating troop-contributing countries had a constructive exchange of views."